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Interstate Commerce Commission
1980 Annual Report

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ICC80

Ninety-fourth Annual Report of the Interstate Commerce Commission

Fiscal Year Ending
September 30,
1980

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LETTER OF TRANSMITTAL

To the Congress of the United States

Washington, D.C., April 4, 1981

It is my pleasure to submit the ninety-fourth Annual Report of the Interstate Commerce Commission, in accordance with section 21 of the Interstate Commerce Act.

The report generally embraces the fiscal year ended September 30, 1980, except in the discussion of significant actions that transcend the 12-month period or where necessary to conform to various statistical analyses.

The statement of appropriations and aggregate expenditures for the 1980 fiscal year appears in appendix D.

Marcus Alexis
Acting Chairman

THE COMMISSION

(as of September 30, 1980)

	Appointed	Term Expires Dec. 31
Darius W. Gaskins, Jr., *Chairman* (D) *Washington, D.C.* ..	1979	1984
Robert C. Gresham, *Vice Chairman* (R) *Maryland*	1969	1981
George M. Stafford (R) *Kansas*	1967	1980
Charles L. Clapp (R) *Massachusetts*	1974	1980
Thomas A. Trantum (R) *Connecticut*	1979	1985
Marcus Alexis (D) *Illinois*	1979	1985
Reginald E. Gilliam, Jr. (D) *Virginia*	1980	1982

Commissioner George M. Stafford resigned from the Commission effective August 31, 1980. During the fiscal year, Commissioner Reginald E. Gilliam, Jr., was appointed to fill a vacancy on the Commission. Chairman Gaskins resigned from the Commission effective February 1, 1981. Commissioner Marcus Alexis, who was elected Vice Chairman in January, became Acting Chairman of the Commission.

Interstate Commerce Commissioners, left to right, Alexis, Clapp, Gresham *(Vice Chairman)*, Gaskins *(Chairman)*, Stafford, Trantum, Gilliam.

Functions and Responsibility

The Interstate Commerce Commission is an independent federal agency responsible for regulating interstate surface transportation within the United States. The ICC is concerned with assurance that the American public has adequate and efficient transportation systems.

This concern for the individual consumer has existed since 1887 when the Commission became the first independent regulatory agency with specific authority in this field. In more recent years, the ICC has been in the forefront of regulatory agencies in establishing a consumer information facility and installing a toll-free hotline for consumers.

The ICC now holds jurisdiction over some 30,000 for-hire companies providing surface transportation in the United States. These companies include railroads, trucking companies, bus lines, water carriers, coal slurry pipelines, freight forwarders, and transportation brokers.

The ICC is directed by 11 Commissioners, appointed by the President and confirmed by the Senate for seven-year terms. The President designates one of the Commissioners to serve as Chairman and the Commissioners elect the Vice Chairman on an annual basis. During the fiscal year the Commission was constituted with seven members.

How the ICC Operates

The Commissioners supervise all activities, with specific responsibilities delegated to 13 Offices and Bureaus. Regular agenda meetings are held to act on Commission matters.

The Chairman coordinates and organizes the Commission's work and represents it in legislative matters and in relations with other government agencies. The Chairman is the executive head of the Commission and has general responsibility for:

1. Overall management and functioning of the Commission.
2. Formulation of plans and policies designed to assure the effectiveness of the Commission and the administration of the Interstate Commerce Act.
3. Identification and early resolution of major regulatory problems.
4. Development and utilization of effective staff support to carry out the duties and functions of the Commission.

The Vice Chairman represents the Commission or acts in place of the Chairman when the Chairman is not available. Additionally, the Vice Chairman has been delegated important functions by the Commission including oversight of matters involving the admission, disbarment or discipline of practitioners.

The Commission's daily activities during the fiscal year were carried out through an organizational structure consisting of 13 Offices and Bureaus as follows:

- Office of the Managing Director—directs day-to-day administration of the Commission and the management and functioning of the Commission's operations.
- Office of the General Counsel—defends Commission decisions challenged in court, renders legal opinions to the Commission, and assists in developing the Commission's legislative program.
- Office of the Special Counsel—created by the Commission to represent the public in all proceedings before the ICC.

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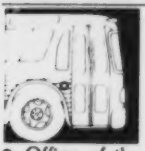

- Office of the Secretary—the issuance and documentations center of the Interstate Commerce Commission. The Secretary is the custodian of the Commission's seal and records and is responsible for issuance of ICC decisions.
- Office of Hearings—staff of Administrative Law Judges responsible for conducting Commission hearings.
- Office of Proceedings—processes formal cases pertaining to operating rights, financial matters, rates and competitive practices.
- Office of Policy and Analysis—identifies policy issues which merit the Commission's attention and coordinates staff efforts directed toward analyzing those issues for the Commission. Performs transportation research and conducts economic and statistical analyses relating to regulation and to specific proceedings before the agency.
- Office of Consumer Protection—operates a consumer program to assist the public who are having problems with the regulated industries. Maintains close liaison with the activities of railroads, trucking companies, barge lines, freight forwarders, and rate bureaus to insure that these industries operate in compliance with ICC policies. Considers the potential for harm to consumers in targeting the Commission's investigative and enforcement resources.

- Office of Communications—provides general assistance to meet public and press requests, maintains news room for press assistance, and conducts briefings for visitors and foreign guests.
- Office of Governmental Affairs—assists Members of Congress on matters pertaining to the Interstate Commerce Commission and coordinates acitivities of the agency with the States.
- Small Business Assistance Office—functions as a clearinghouse or focal point for resolution of small business problems in the area of surface transportation and provides the Commission with a broad perspective of small business problems.
- Bureau of Accounts—concerned with the accounting phases of effective economic regulations, prescribing uniform accounting rules, auditing books of transportation companies, and reviewing financial reports.
- Bureau of Traffic—is concerned with publication, filing and interpretation of tariffs, and their suspension before they become effective if they appear unreasonable or unlawful.

YEAR IN REVIEW

1979

October 1	ICC expands consumer services with a toll-free hotline to make its complaint handling system more responsive to consumer needs.
October 6	Small Business Assistance Office (SBAO) conference held in Atlanta, GA.
October 11	Public hearings on Rock Island directed service are announced.
October 12	Commission revises tariff examination program; establishes Tariff Integrity Board to interpret questioned tariffs.
	Bus carriers are permitted to file for a fuel surcharge.
October 15	Small Business Assistance Office conference held in Philadelphia.
October 17	Staff proposals for intercity bus regulatory reform are released.
	Commission adopts new policy emphasizing competition rather than protection in licensing truck and bus firms.
October 25	In letter to President, ICC pledges continued help to owner-operators.
	Reporting requirements for pipeline companies are eliminated; accounting and reporting requirements for switching and terminal companies are simplified.
	SBAO conference held in Hinsdale, IL.
October 31	Informal conference is held in Chicago on ICC plans to assist railroads and shippers during winter storms.
	Schedule of informal conferences on household goods is announced.
November 2	Commission revises the Quarterly Report of Results of Operations for trucking companies.
November 5	ICC establishes new consumer assistance unit in the Bureau of Operations.
November 6	Commission considers decentralizing temporary licensing of bus, truck, and water firms from headquarters to six regional offices.

November 7 ..... Commission modernizes its accounting regulations for railroad rebuilding expenditures by adopting the provisions of generally accepted accounting principles.

November 16 ..... Commission eliminates the confidential status of piggyback traffic statistics for several transportation modes.

November 19 ..... SBAO conference held in Boston.

November 28 ..... ICC continues directed service for additional 90 days over bankrupt Rock Island Railroad.

December 3 ..... Commission approves control of Detroit, Toledo and Ironton Railroad by Grand Trunk Western.

December 5 ..... Staff study on the value of motor carrier operating rights is released.

ICC requests comments on incentive per diem program for rail boxcars and gondolas.

December 6 ..... Commission proposes to allow truckers to serve intermediate points on their routes.

December 7 ..... ICC simplifies licensing procedures for passenger tour brokers.

St. Louis-Southwestern Railway is authorized to operate Rock Island's "Tucumcari Line."

December 13 ..... Daily recorded information to be provided as part of severe storm standby plan.

December 31 ..... ICC finds employee-shipper ownership plan for Milwaukee Road not feasible.

1980

January 3 ..... Class III trucking company annual report is streamlined.

Expedited procedures for handling Rock Island and Milwaukee Railroad reorganization cases are announced.

January 11 ..... ICC loosens restraints on truckers competing for government freight.

Commission proposes to permit truckers with "one way" authority to haul return loads.

January 13–16	ICC participated in White House Conference on Small Business.
January 16	Temporary licensing of bus, truck, and barge firms is shifted to six regional offices.
January 21	ICC finds no antitrust violation by Seaboard Coast Line, adjusts Monon merger conditions.
January 28	"No suspend zone" is proposed to enhance motor carrier ratemaking flexibility.
January 31	Adequate revenue level for Nation's railroads is set a 7 to 10.6 percent return on net investment.
February 19	ICC proposes revising rules governing rail "demand sensitive" pricing.
February 22	Federally subsidized Rock Island service is extended until March 23.
February 28	Commission issues proposed policy statement on th impact of its decisions on small businesses.
March 12	ICC speeds action on temporary truck licensing; appoints employee boards to process requests.
March 14	Commission reduces accounting and reporting requirements for electric railway companies.
March 17	Temporary rule is proposed to permit truckers to us most direct highway routes.
March 18	ICC authorizes interim operations over portions of Rock Island Railroad.
March 19	Reorganization, liquidation plans for Milwaukee Roa are rejected.
April 2	Commission releases 1977 Rail Carload Cost Scales Update Ratios also are released amending the 1977 rail costs to an April 1980 level.
April 11	ICC announces review of fuel surcharge program.
April 14	Annual reporting requirements for refrigerator car lines and private car lines are simplified.
April 15	Commission creates new Office of Consumer Protection; redirects compliance and enforcement programs.
April 17	Burlington Northern/St. Louis-San Francisco Railway merger is approved.
April 25	ICC considers changes to rail contract rates policy.
April 28	Commission proposes replacing general railroad rate increases with regulation-free cost recovery zone.

April 29	Proceeding to determine 1980 rail cost of capital is announced.
April 30	Commission releases a 1979 computerized Highway Form B.
May 2	SBAO and OPA Fuel Surcharge Conference, Kansas City, KS.
May 3	SBAO and OPA Fuel Surcharge Conference, Denver, CO.
	SBAO and OPA Fuel Surcharge Conference, Pittsburgh, PA.
	SBAO and OPA Fuel Surcharge Conference, Birmingham, AL.
May 4	SBAO and OPA Fuel Surcharge Conference, Los Angeles, CA.
	SBAO and OPA Fuel Surcharge Conference, New Brunswick, NJ.
May 7	ICC moves to improve State/Federal relations by creating a new Governmental Affairs Office.
May 12	Contract Advisory Service is established to accelerate use of rail-shipper contracts.
May 20	Commission awards $2.9 million repayment to the Iowa Public Service Company for rail rate increases by the Burlington Northern and the Chicago and Northwestern Transportation Co.
May 27	ICC recommends abandonment of Rock Island rail system.
June 2	Commission sponsors rail cost seminar to evaluate usefulness of newly developed uniform cost system.
June 9	ICC alerts railroads it may permit lower rail car hire charges.
June 10	Sale of 965-mile "Tucumcari Line" of Rock Island to Southern Pacific is approved.
June 18	Commission explores easing railroad evidentiary requirements in general rate increase procedures.
July 1	ICC implements car compensation rates by type of car for rail freight cars; fulfilling the Congressional mandate of Sec. 212 of the Railroad Revitalization and Regulatory Reform Act.

July 2	Commission unveils plans to implement new trucking legislation.
	Strict time limits are set for handling trucking finance applications.
	Commission revises rules for agricultural cooperatives in response to Motor Carrier Act of 1980.
	Procedures for truck licensing are simplified; broadening of authorities is proposed in response to new legislation.
	ICC establishes Ombudsman's Unit to help shippers and carriers with questions on the new Motor Carrier Act.
July 7	Commission to encourages increased price competition among rails; proposes removal of traffic protective conditions in mergers.
July 9	Most trucking operations made in conjunction with air shipments are exempted from ICC jurisdiction.
July 9	New rules are proposed to govern appeals of motor, water, and freight forwarder decisions.
July 14	New tariff examination program established.
July 16	Commission issues its 1979 Update Ratios of Class I and Class II trucking companies.
July 17	ICC releases list of unique rail contracts filed by shippers and railroads.
July 22	Pay for Rock Island trustee is approved but ICC criticizes his progress in selling parts of the railroad.
July 24	New schedule is established for processing motor carrier general rate increases.
August 1	ICC establishes tariff guidelines for motor carrier zone of rate freedom.
August 14	Railroad collective ratemaking agreements are disapproved.
August 15	Commission eliminates regulations on passes and free transportation for railroads and motor and water carriers.
	Commission directs Wabash Valley Railroad to operate Rock Island lines in Kansas; sets terms for future directed service.

August 21 ..... Interim standards are set for motor carrier rate bureaus.

August 22 ..... ICC approves $40 million sale of 500 miles of Milwaukee Railroad lines in seven western and midwestern states.

August 26 ..... Rail incentive per diem charges are eliminated.

August 29 ..... Commission issues policy statement on the impact of its decisions on small businesses.

September 8 ..... Commission adopts new format and code standards for tariffs, paves the way for tariff automation.

September 10 ..... ICC proposes to modify general views toward rail mergers; would place greater emphasis on competitive impacts.

September 16 ..... Proposed rules are issued to eliminate gateways and remove route limitations for trucking companies.

Commission proposes rules for restriction removal in trucking applications.

September 22 ..... ICC co-hosts with Transportation Research Board a conference to explore regulatory reform for the intercity bus industry.

September 24 ..... Commission approves control of Chessie and Seaboard Coast Line rail systems by CSX Corporation.

September 24 ..... Ten applications to purchase portions of Rock Island and Milwaukee Railroads are accepted.

CONSUMER PROTECTION

The Interstate Commerce Commission has a duty to protect the public interest and does its best to ensure that consumers and small businesses are represented in the administrative process. The Commission's extensive consumer program is built on a foundation of consumer-oriented services initiated in 1973 and greatly expanded during the fiscal year.

During the fiscal year, the Commission reorganized two of its existing Bureaus into the Office of Consumer Protection (see page 24). This Office has fully implemented an automated nationwide system of handling complaints and inquiries from the public. At the hub of the new program is a National Consumer Assistance Center at headquarters with complaint centers located in nine regional locations. All complaints are received on a toll-free consumer "hotline" at headquarters that is available seven days a week, twenty-four hours a day. The "hotline" is staffed during regular working hours, and a sophisticated message-taking system is used during non-working hours.

Complaints that involve emergency circumstances are immediately handled at headquarters. Other complaints are instantly relayed by computer to one of the field complaint centers for expedited handling. During the past year over 50,000 complaints and 25,000 inquiries were received and processed to a conclusion.

The new computerized system improves the timeliness and effectiveness of complaint handling—a major priority. It also produces data revealing complaint trends and patterns and identifies transportation problems faced by various classes of shippers, market areas, and small communities. The Commission's inspection and enforcement staff investigate these problems and take appropriate action to assure that the transportation industry is responsive to all users. The comprehensive data is an important element for the Commission to use in considering broad policy issues involving consumer protection.

During the fiscal year, the ICC enforced the public's right to detect readily proposed increases in rates and charges.[1] This is accomplished through careful enforcement of a long-st nding requirement that transportation companies "flag" proposed increases with standard symbols. The eye-catching symbols permit quick identification of increases so that tariff users may assess the impact of those increases on their future business. The right of the public to protest any increase believed to be unlawful is a hollow right unless they can first identify those rates or charges which do result in increases. Failure to symbolize increases will make them invalid in the assessment of charges.

Shippers of household goods were benefited by a Commission decision that required household goods companies to publish storage-in-transit charges on a daily basis rather than monthly.[2] Under previous practices, companies assessed storage charges on the basis of 30-day increments even when the goods were in storage for as little as one day.

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[1] *Tariff Improvement*, 364 I.C.C. 217 (1980), stayed pending judicial review.

[2] Ex Parte No. MC–19 (Sub No. 34), *Household Goods Transportation (Storage-in-Transit Charges)* (not printed), decided July 17, 1980.

During the fiscal year the Commission took many actions to benefit the consumer. Examples of these actions, which are discussed in detail in other areas of this Report, include:

- Issued new rules to consider the impact of ICC decisions on small businesses.
- Held small business assistance conferences in key cities throughout the country.
- Issued staff proposals for intercity bus regulatory reform.
- Instituted a series of informal hearings on ICC regulations of the moving industry, inviting public participation of both consumers and industry.
- Continued the procedures for independent truck drivers to recover rapidly increasing fuel costs.
- Held public hearings on directed service of the Rock Island Railroad.
- Issued directed service orders to continue operations over the bankrupt Rock Island and Milwaukee Railroads.

LEGISLATION

Efforts to reform the economic regulation of surface transportation industries intensified in Congress and culminated in decisive action on several major pieces of legislation during the past year. Substantial reforms for the trucking, railroad, and household goods moving industries had been enacted at the close of the fiscal year. These reforms reflected the need for increased competition and pricing flexibility in these industries in order to provide incentives to improve service and efficiency and recognized that a financially healthy and competitive transportation sector will provide shippers the best price and service options.

The Interstate Commerce Commission played an important role in this legislative process, testifying before House and Senate committees on a number of occasions to present its views on proposals drafted by the Administration and the Congress. Many of these proposals contained elements of earlier recommendations made by the Commission. In addition to testifying at formal hearings, the Commission prepared in-depth written analyses of specific proposals, including suggestions for language changes in bills and committee reports to clarify the legislation's intent.

The major reform legislation passed in fiscal year 1980 reflected the active participation of the ICC in the legislative process. As Congress prepares to conduct oversight of the implementation and effects of these reforms and to explore other targets for change, such as the intercity bus industry and intermodal transportation, the Commission will continue to play an important role in the legislative arena.

Railroads

Railroad Deregulation—The Commission appeared before the Senate Committee on Commerce, Science, and Transportation on November 7, 1979, to present testimony regarding S. 1946, the Railroad Transportation Policy Act of 1979. The Commission expressed support for the legislation, stating that it represented real progress toward bringing about a system of railroad regulation which would benefit both the railroads and the shippers who utilize their services.

The Commission was particularly supportive of the simplified rate structure contained in the bill which provided the mechanisms by which carriers might use selective pricing strategies to improve their financial condition while preserving adequate protection for shippers from unreasonably high rates. This rate structure included a simplified test for maximum rate regulation, a mechanism for recovering increasing costs due to inflation, a zone of pricing flexibility above cost adjustment increases, and the gradual phasing out of general rate increases. The Commission expressed enthusiastic support for the contract rate provision which spelled out contract obligations while ensuring the preservation of rail service. The ICC did not feel, however, that the bill dealt adequately with problems associated with joint rates and the division of revenues among the participating railroads.

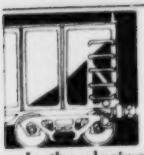
The Commission commented favorably on the legislation's reforms in the areas of mergers and abandonments which simplified the processes and provided stricter time frames for these proceedings. Although expressing some reservations, the ICC generally supported the provisions dealing with the consideration of competition in entry proceedings, the Commission's authority to issue car service orders in emergency situations, and the broadening of ICC authority to exempt railroads or their services from regulation. The Commission did not support the elimination of its responsibility for reviewing applications for the issuance of rail securities.

On February 22, 1980, the Commission testified before the Senate Committee on Commerce, Science and Transportation on a proposed amendment to S. 1946 which would require the ICC to establish standards for determining a revenue-to-variable cost ratio serving as a limit for maximum rates. The amendment was intended to provide additional protection for coal shippers who have no viable alternative to rail transportation.

The Commission was sensitive to the problems of coal users and the increasing need to use coal to help solve the nation's energy problems, but felt the provisions of S. 1946, along with the ICC's own ratemaking procedures, constituted a sufficient guarantee against excessive rail rates. The Commission stated that the amendment would be difficult to implement because of unclear language; that it posed data collection problems; and that it appeared to work cross-purposes with the rest of S. 1946 which encouraged cost-based ratemaking. A compromise version of this amendment was contained in S. 1946 when it was passed by the Senate on April 1, 1980.

The Commission appeared before the Subcommittee on Transportation and Commerce of the House Interstate and Foreign Commerce Committee on April 2, 1980, to testify on H.R. 7235, the Staggers Rail Act of 1980. The ICC supported most of the provisions of this legislation, stating that it balanced the opportunity for railroads to earn adequate revenues with protections for shippers and communities where such protection is necessary. The bill contained provisions which used a full cost percentage rate standard to encourage more accurate pricing and more efficient service, which permitted more extensive use of contract rates, and which provided for phases elimination of antitrust immunity for collective ratemaking. The Commission suggested changes in the sections of the bill dealing with railroad mergers and compensation for the use of another railroad's cars, but expressed support for the goals of these provisions.

On August 28, 1980, the ICC testified before the Subcommittee on Oversight and Investigation of the Committee on Interstate and Foreign Commerce, to support the cost recovery percentage contained in H.R. 7235. This provision was designed to allow the railroads to attain revenue adequacy without ICC intervention. Another attractive feature of this mechanism was that the percentage decreased as the rail industry's performance improved, thereby allowing shippers and consumers to share the benefits of increased efficiency. Because of the concerns raised regarding the calculation of this percentage figure, the Commission suggested that the legislation give the ICC the flexibility to change the details regarding its use as the industry gained experience with its practical effects.



In the closing days of fiscal year 1980, the House and Senate agreed to a compromise rail regulatory reform measure. This bill became Public Law 96-448 when it was signed by the President on October 14, 1980.

Railroad Mergers—The Commission testified on the subject of rail mergers before the Subcommittee on Transportation and Commerce of the House Committee on Interstate and Foreign Commerce on November 1, 1979.

The ICC outlined the history of the effects of its regulation on rail mergers and explained its responsibilities in this area under current law, including the statutory standards by which merger and consolidation applications are judged. It was noted that additional guidelines were issued by the Commission in December 1978 which give consideration to the factors of improved operating efficiency, enhanced marketing opportunities, and retention of essential rail services, while ensuring that competition has not been unnecessarily diminished.

The ICC favored its continued jurisdiction over rail mergers rather than having them governed strictly by the antitrust laws and thus subject to the jurisdiction of the Justice Department. The Commission emphasized the importance of balancing the benefits of consolidation with the loss of competition on a case-by-case basis. Although the effect of a proposed merger on competition is carefully evaluated by the ICC, a more broad-based approach which examines the effects on the rail network as a whole is preferable to sole reliance on the standard of competition. The Commission stated that the efficiencies which can be gained from a merger, including improved service, elimination of redundant facilities, and a stronger financial position for the merged railroad, may overcome anticompetitive effects in some cases.

Milwaukee Railroad Bankruptcy—On October 29, 1979, the Commission testified before the Senate Committee on Commerce, Science and Transportation on the status of proceedings to reorganize the Milwaukee Road and pending legislation to ensure continued service.

The Commission provided an update on the financial and operational condition of the Milwaukee Road and outlined current ICC administrative proceedings, including abandonment applications, reorganization plans received, and an ICC conference on a plan for directed service should that alternative become necessary. The testimony also contained an update of the court proceedings.

The ICC commented on S. 1905 and S.J. Res. 114, legislation to provide funds for the Milwaukee and to promote an employee or employee/shipper reorganization plan for the railroad. The Commission agreed that the use of funds provided under the Emergency Rail Services Act (ERSA) was preferable to the more expensive alternative of directed service. The ICC was reluctant, however, to prejudge the merits of a particular reorganization plan and said the Commission should retain responsibility for processing abandonments until the reorganization plan was completed. The longer time frame contained in S.J. Res. 114 was preferred to that of S. 1905.

The Commission expressed a strong commitment to expedited procedures for the reorganization and abandonment applications and urged that funds be provided under ERSA to continue service until the projected completion date of the proceeding in May 1980. This would avoid interruptions in rail service or the need for directed service until longer term solutions could be found.

S. 1905 was signed by the President on November 4, 1979, as Public Law 96–101.

Rock Island Railroad Bankruptcy—The Commission testified on February 20, 1980, before the Surface Transportation Subcommittee on the Senate Committee on Commerce, Science and Transportation on the Rock Island Railroad.

The Commission outlined the course of events leading to its decision to direct the Kansas City Terminal Railway Company (KCT) to provide service over Rock Island lines and the Commission's continuing review of the situation. The ICC's latest directed service order expired on March 2, 1980. The Commission's decision not to continue directed service was based on the desire to provide an incentive for the parties involved to negotiate the purchase of segments of the Rock Island system. Appropriations legislation also had placed limits on the use of funds for directed service. The Commission outlined alternative means of ensuring that service would continue without interruption.

The Commission was asked to comment on S. 2246 and S.J. Res. 139, legislation which would require the Rock Island's trustee to operate the entire system using funds provided through the Emergency Rail Services Act. The Commission did not favor either proposal for a number of reasons—most importantly because it would be less efficient and more costly to fund service by the Trustee than to fund continued directed service by the KCT.

Although the ICC believed that its actions provided a workable framework for transition and that legislation was unnecessary, S. 2253 provided the least objectionable alternative. This bill would use the existing system which was functioning satisfactorily, limit the duration of directed service, and require expeditious treatment by the ICC of applications for purchase. The Commission expressed preference for this approach, but emphasized that resolution of labor protection issues would be necessary in order to resolve the Rock Island's problems.

S. 2253 was signed into law on May 30, 1980, as Public Law 96–254. The legislation requires the Commission to direct service over segments of the Rock Island and Milwaukee railroads under certain conditions and authorized the Commission to permit temporary operations over lines of these railroads. It also required expeditious treatment of all proceedings involving the Rock Island. Public Law 96–254 was amended by Title VII of the Staggers Rail Act of 1980 (P.L. 96–448).

Conrail—The Commission testified on April 16, 1980, before the Surface Transportation Subcommittee of the Senate Committee on Commerce, Science, and Transportation on S. 2527, a bill which would provide for a rationalization plan for Conrail. Under the legislation, the U.S. Railway Association would prepare a rationalization plan for submission to Congress. If Congress approved the plan after receiving input from the Department of Transportation and the ICC, Conrail would be permitted to proceed with abandonments without receiving prior ICC approval.

The ICC shared Congress' concern about Conrail's performance and agreed that a rationalization of Conrail's structure is desirable. The Commission felt, however, that rationalization is achievable under existing regulations. Abandonment proposals could be handled expeditiously under the ICC's simplified procedures for abandonments and for transfer of lines to another rail carrier. These proceedings

also give shippers and carriers a chance to air their views and give communities time to adjust to changes in service patterns.

The Commission stressed the importance of fundamental reform of the regulatory process in attaining the goal of a successful, independent Eastern rail network. Innovative marketing based on a wide range of price and service offerings are an essential part of the solution to Conrail's problems.

The basic provisions of S. 2527 were included in the Staggers Rail Act of 1980 which received final Congressional approval on September 30, 1980.

Railroad Car Compensation—The Commission appeared before the Subcommittee on Transportation and Commerce of the House Committee on Interstate and Foreign Commerce on October 30, 1979, to discuss ICC regulation of car compensation.

The Commission provided general background information on the rationale and evolution of per diem charges for car compensation. Basic per diem (BPD) charges are intended to reflect reasonable compensation for the use by one railroad of a car belonging to another. Incentive per diem (IPD) charges were developed to improve car utilization and encourage car acquisition. Recent developments, including rail industry initiatives which contributed improvements in this area and Commission action on rate regulatory reform, suggested the need for change, particularly in the incentive per diem system.

The Commission stated that BPD charges are a good reflection of costs, but IPD charges may be too high, or unnecessary in some cases, thus encouraging an excessive car supply by investors and penalizing railroads using cars subject to IPD charges. The ICC encouraged the use of innovative pricing methods including peak and seasonal rates, to alleviate the car shortage problem. The Commission said that while per diem charges undoubtedly encourage new equipment purchases, investment decisions are actually dependent on a company's overall revenue position. Therefore, the best means to ensure adequate purchases of new equipment is through overall improvements in rail regulation designed to improve revenues generally.

The Staggers Rail Act of 1980, Section 224, passed September 30, 1980, repealed the IPD provision of the Interstate Commerce Act.

Soviet Grain Shipments—On November 29, 1979, the ICC appeared before a joint meeting of the Subcommittee on Agriculture Production, Marketing and Stabilization of Prices, and the Subcommittee on Foreign Agricultural Policy of the Senate Committee on Agriculture, Nutrition, and Forestry to testify on the impact of Soviet grain purchases on the United States transportation system.

The Commission stated that changes in marketing and distribution patterns, particularly shifts from small country grain elevators to larger storage locations, and an increased fleet of grain hauling railroad cars, should alleviate problems which have been experienced in the past when large amounts of grain were transported for shipment to the Soviet Union. In addition, the ICC outlined steps it had taken to assist the smooth flow of grain to port, including the establishment of a port monitoring system to pinpoint problems before they become severe and the development of a rail storm standby plan to aid in dealing with emergency situations arising from winter storms. During

previous grain sales, car service orders were relied on heavily in order to get equipment where it was needed. While they do respond to a public need for transportation services, the Commission stated that car service orders may adversely affect overall efficiency and that it intended to use them judiciously.

The Commission emphasized that fundamental changes in rail regulation, such as a cost-oriented rate structure and simplified abandonment procedures, were needed to foster the development of a more efficient rail network better able to handle the demands imposed by large grain exports.

The Commission testified before the Subcommittee on Economic Growth and Stabilization of the Joint Economic Committee on February 4, 1980, on the impact of the Soviet grain embargo on rail and barge transportation. The Commission said there had been little immediate impact on rail and water carrier operations and the embargo would more likely reduce shortages of rail cars and barges than seriously reduce revenues. Moreover, the ICC felt that the Administration's proposal to purchase and store large quantities of wheat should be helpful to rail and barge revenues. The Commission outlined actions it was taking to deal with potential problems, including monitoring financial impacts on railroads which rely on grain shipments for a significant part of their revenues, and allowing railroads to deviate from certain unit train tariff requirements which shippers could not meet due to reduced export sales.

Trucking Companies

Regulatory Reform—The Commission testified in Reno, Nevada, on December 3, 1979, before the Senate Committee on Commerce, Science, and Transportation on the future of trucking regulations and appropriate legislative reforms. The ICC focused on the central questions involved in reforming regulations and stressed the need for a comprehensive approach.

The Commission stated that reform involved a fundamental choice between two basic approaches to controlling rates and ensuring service—primary reliance on direct regulation or greater reliance on competition and market incentives. The ICC outlined a number of reform proposals it was considering that reflected the Commission's preference for the competitive approach, such as removal of entry barriers for the truckload segment of the industry and for government traffic and a system of flexible pricing for the truckload segment.

The Commission also addressed the subject of service to small communities and the question of whether there are economies of scale in the trucking industry and, if there are, how they should be balanced against the importance of promoting small businesses.

The ICC appeared before the Senate Commerce Committee on February 21, 1980, to testify on S. 2245, the Motor Carrier Reform Act of 1980. The Commission's testimony focused on the three key issues at the crux of reform: eased entry into the trucking industry, elimination of antitrust immunity for collective ratemaking, and institution of flexible pricing. The ICC commended the legislation for addressing these central issues but felt the mixture of increased competition and traditional regulation should have relied more on competition. The Commission applauded the substantial progress made in removing regulatory barriers to entry but was disappointed

that the legislation required case-by-case approach for granting carriers authority to operate. The ICC also expressed concern about the phased removal of the industry's antitrust immunity and the adequacy of the pricing flexibility provisions.

The Commission closed its testimony by reaffirming its commitment to swift implementation of regulatory reform. The ICC reiterated that the reforms contained in this legislation should give rise to freer competition and greater innovation, which would benefit the industry, shippers, and consumers.

On March 6, 1980, the Commission appeared before the Subcommittee on Surface Transportation of the House Committee on Public Works and Transportation to present testimony on the House proposal for trucking reform, H.R. 6418. The Commission's testimony was very similar to that delivered to the Senate on S. 2245.

There were two substantial differences between S. 2245 and H.R. 6418 on which the Commission commented. The ICC recommended changes to ease entry, including placing the burden of showing that the public interest would not be served by additional service directly on the companies opposing new service. The Commission opposed the traditional and extensive case-by-case approach to the removal of operating restrictions, such as those requiring travel over circuitous routes, and advocated across-the-board removal of these restrictions. These recommendations were in part incorporated into the final version of the legislation.

The Motor Carrier Act of 1980 was signed into law as Public Law 96–296 on July 1, 1980. The final bill contained significant reforms which should lead to a more competitive and efficient trucking industry.

Household Goods Transportation—On October 11, 1979, the Commission testified before the Senate Committee on Commerce, Science, and Transportation on S. 1798, the Household Goods Transportation Act. The Commission fully endorsed the purpose of the legislation—to increase competition and operational flexibility in the household goods moving industry and to assure adequate consumer protection.

Many of the regulatory changes proposed in this legislation were consistent with Commission actions in this area, particularly the emphasis to be placed on competition in entry proceedings. The ICC commented favorably on the bill's rate flexibility provisions and noted the Commission had initiated conferences called for by the legislation to review its household goods regulations—considering ways to reduce burdensome paperwork requirements while continuing to protect the interests of consumers.

The ICC said that an important concern in the household goods transportation area is consumer protection. The ICC expressed reservations regarding the adequacy of the consumer protection provisions of the bill and recommended changes to strengthen this area of the legislation. Specifically, the Commission suggested that recognition of the ICC's role in protecting consumers be explicitly included in the declaration of policy and recommended clarification of provisions dealing with estimating practices, shipper-requested reweighs of shipments, and per diem payments when a shipment is not picked up or delivered on time. The Commission endorsed the dispute settlement provisions and supported the

strengthening of its enforcement authority. To improve the effectiveness and uniformity of enforcement actions, the Commission further urged it be given authority to bring actions against violators of ICC regulations in its own name.

On February 20, 1980, the Commission testified on S. 1798 before the Surface Transportation Subcommittee of the House Committee on Public Works and Transportation. The ICC expressed general support for the legislation as a balanced compromise which would lead to much-needed improvements in regulation of the moving industry. However, the Commission presented several recommendations for change—including clarification of the intended scope of antitrust immunity for collective ratemaking and language to ensure that binding estimates would be offered to consumers on a nonpreferential basis. The Commission objected to provisions which would impede its enforcement efforts and suggested alternatives to ensure consumers are adequately protected.

S. 1798 received final passage and was cleared for the President's signature on September 30, 1980. Prior to passage, a number of changes were made in the bill by the House Committee on Public Works and Transportation to conform to the recently approved Motor Carrier Act of 1980. The final bill reflected the ICC's participation in the legislative process, particularly through stronger consumer protection language. It was signed into law as Public Law 96–454 on October 15, 1980.

The Role of Minority and Small Businesses in Motor Carrier Transportation—On March 31, 1980, the Commission testified on the role of minority carriers in today's regulated trucking industry before the Subcommittee on General Oversight and Minority Enterprise of the House Committee on Small Business.

The Commission outlined actions it had taken which could lead to increased minority participation in the trucking industry, including the creation of a Small Business Assistance Office in 1977 to assist small and minority businesses in understanding and dealing effectively with the regulatory process. A streamlined application process and eased entry rules were especially beneficial for small businesses. The Commission also was considering a proposed policy statement which would ensure that the ICC consider the impact of its decisions on small and minority businesses.

The testimony focused particularly on the Commission's consideration of a proceeding which would issue a master certificate for the transportation of government traffic requiring companies to meet only a fitness test to get permission to participate in this traffic. While this decision opened many opportunities for small and minority businesses, the Commission cautioned that it offered no panacea. Practical problems arising from the seasonal and unbalanced nature of government traffic and its concentration in a small number of commodities, many of which require specialized equipment, make it likely that this section of the industry will continue to be dominated by larger companies.

Other Issues

Coal Slurry Pipelines—On August 28, 1980, the Commission appeared before the Subcommittee on Transportation and Commerce of the House Interstate and Foreign Commerce Committee to testify on coal slurry pipelines.

There were several bills dealing with this subject, all of which contained the following basic elements: the requirement that the ICC certify the need for a particular pipeline, grant of Federal power of eminent domain over non-Federal lands for pipelines, and the requirement that pipelines operate as common carriers subject to ICC regulation.

The Commission stated its full support for the coal slurry pipeline concept. A major concern expressed by many interested parties is the potential impact of pipelines on railroads, many of which rely heavily on coal revenues. The Commission advocated that the marketplace should determine which transportation mode provides the most efficient use of coal in particular circumstances. To foster this competition, the Commission emphasized that pipelines should be governed by the same type of regulatory regime as competing modes. This even-handed regulation would be best accomplished if both pipelines and railroads were given maximum flexibility to price and market their services. Although technological and environmental questions remain, the Commission saw the further development of slurry pipelines as a source of potential competition that should aid the development of an efficient and profitable national rail system.

The legislation authorizing coal pipelines did not pass either House in fiscal year 1980.

Paperwork reduction—On November 21, 1979, the Commission submitted written comments on S. 1411, the Paperwork and Redtape Reduction Act, to the Senate Governmental Affairs Committee. The Commission supported the legislation's purpose of eliminating agency requests for information which are duplicative, unnecessary and cost-inefficient. However, the ICC was concerned over the expansion of the powers of the Office of Management and Budget in its clearance authority over agency requests to collect information. The bill would allow OMB to determine an agency's need for certain information and whether the agency may collect that information. The ICC felt this could have an adverse effect on its ability to carry out its Congressional mandate by causing unnecessary delays or preventing the collection of the information necessary to develop and implement its policies. The Commission recommended that the more limited authority in this area currently exercised by the General Accounting Office be transferred to OMB rather than the expanded powers contained in S. 1411. This legislation was pending House and Senate floor action at the close of fiscal year 1980.

ADMINISTRATION

Organization

The Commission made several organizational changes designed to increase efficiency and to improve service to the public.

The Office of Consumer Protection was created through consolidation of the Bureau of Investigations and Enforcement and the Bureau of Operations. Regional and field operations were put under the direct control of program offices to improve communication and direction from headquarters as well as clarify program responsibility and simplify lines of communication.

The Office of Policy and Analysis was reorganized into motor and rail divisions in order to focus expertise by transportation mode and to prepare for work necessary to implement legislative initiatives.

The Commission consolidated activities of the Office of Congressional Relations and State and local coordination responsibilities of the Office of Policy and Analysis into a new Office of Governmental Affairs to provide one central point of contact for interaction with all levels of government.

A Tariff Integrity Board was established to provide a means for tariff users to contest any tariffs on file with the Commission. This also enabled the Commission to examine tariffs on a sampling basis, reduce staff in certain areas, and still provide an effective tariff review program.

The Ombudsman's Office within the Office of Proceedings was expanded to provide a source of information on the Motor Carrier Act of 1980 to existing and potential shippers and carriers.

The Commission decentralized headquarters responsibility for deciding requests for emergency and temporary motor carrier operating rights. Authority for determining initial decisions in these proceedings was transferred to the regional offices. This ensures more immediate communication between the public and the Commission, decreases processing time, and permits decisionmaking by personnel most familiar with local conditions and applicants.

Budget and program evaluation activities were consolidated and a new Section of Management Services was established to provide a management analysis capability for Office and Bureau use. A substantial number of analytical and clerical functions were eliminated as a result of this restructuring effort with minimal impact on analysis and evaluation activities.

Management

By utilizing specially appointed employee boards and modifying procedures, the Commission was able to expedite handling of temporary authority requests and eliminate a 4,000 case backlog. In addition, strict time limits were applied to decisions on motor finance applications.

The Commission also adopted a modified method of case processing to expedite elimination of a backlog of approximately 12,000 operating authority requesting which were pending publication in the Federal Register. An additional 6,000 operating authority requests were processed within new deadlines established by the Motor Carrier Act of 1980.

An increasing case workload generated a corresponding increase in paperwork which ultimately required printing and mailing. This increase was met through

expanded printing capabilities as well as improved methods of mail handling. Delays in this stage of processing were thereby avoided.

In order to minimize the paperwork burden on the public certain reporting requirements were reduced. This affected both rail and motor carriers as well as pipeline companies.

The responsiveness of word processing activities was increased through the transfer of individual operating units to the Offices and Bureaus. This improved control over processing and provided a better environment for equipment operators. Capabilities were also developed to track the processing of emergency and regular temporary authority applications and to permit the direct entry of data by Class I railroads.

Guidelines were provided for limiting and monitoring travel expenses to ensure better planning and control of funds. Additionally, procedures were established and training programs provided to implement the Civil Service Reform Act for all affected staff.

Commission Budget

The Commission's Fiscal Year 1982 budget was developed and submitted concurrently to the Office of Management and Budget and Congress in September 1980. The thrust of the budget revolved around implementation and evaluation of recently enacted motor carrier reform legislation and anticipated reform legislation involving railroads and other modes of transportation.

Salaries and Expenses Appropriation

On February 6, 1980, Chairman Gaskins and other Commission members and staff appeared before the Subcommittee on Transportation of the House Committee on Appropriations to testify on the fiscal year 1981 budget request. Testimony was provided to the Subcommittee on Transportation of the Senate Committee on Appropriations on March 4, 1980. The President signed Public Law 96–400 on October 9, 1980, which authorized an appropriation of $82,400,000 for salaries and expenses and 2,000 positions for the Commission for fiscal year 1981.

Payments for Directed Rail Service Appropriation

In late September 1979 the Commission ordered the Kansas City Terminal Railway Co. to provide service over the lines of the Chicago, Rock Island, and Pacific Railroad. Total payments during FY 1980 associated with Rock Island directed service were approximately $78.5 million.

Supplemental Appropriation

The Commission requested a supplemental appropriation for fiscal year 1980 providing for increased payroll costs, including related costs for personnel benefits. On July 8, 1980, Public Law 96–304 was enacted which provided the Commission with $2,700,000 in supplemental funds.

ENERGY AND ENVIRONMENT

Energy

The Commission took several actions designed to reduce energy consumption in the transportation industry through improved operating efficiencies. The ICC had under consideration a proposal to permit owner-operators and small trucking firms which carry exempt agricultural commodities to obtain summary grants of authority to haul regulated commodities on their return trips.[1] In a related action a rulemaking was instituted to allow trucking companies with authority to transport regulated commodities to receive authority, through a summary grant procedure, to transport agricultural commodities in mixed loads.[2] In the same proceeding, the Commission proposed simplified procedures to allow companies holding one-way operating authority to receive authority to transport return loads.

Another rulemaking was instituted to consider establishing a rule of construction to permit regular-route property carriers to serve all intermediate points on their routes.[3] The Commission also proposed a rule of construction to allow regular-route carriers to operate over the most direct routes between terminal points on their systems.[4]

The Commission's actions in these four proceedings were preempted by enactment on July 1, 1980, of the Motor Carrier Act of 1980. The new legislation, which provides a comprehensive scheme to eliminate operational and energy inefficiencies in the trucking industry, incorporated many of the regulatory proposals the Commission had under consideration. Three rulemakings have been instituted to implement this Congressional directive.[5] (See page 50.) These rules are to become effective in fiscal year 1981.

The Commission continued to monitor fuel prices under the fuel surcharge program established in June 1979.[6] The surcharge mechanism allows trucking companies to charge rates in excess of those published in their tariffs to recover rising fuel costs. The surcharge program also ensures that the person who actually paid the increased fuel charges received the full benefit of the surcharge. During the year the ICC held an open conference to discuss the impact of the surcharge program. Subsequently, the Commission instituted a proceeding outlining several options to modify the program.[7] Hearings to discuss these options were held around the country, mainly for the benefit of owner-operators. Proposals were being developed at the close of the fiscal year.

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[1]Ex Parte No. MC–127, *Special Procedures Governing Applications for Motor Carrier Authority Complementary to Movements of Exempt Agricultural Commodities* (not printed), decided September 17, 1980.

[2]Ex Parte No. MC–131, *Special Limited Authority* (not printed), decided August 8, 1980.

[3]Ex Parte No. MC–132, *Intermediate Point Restrictions* (not printed), decided August 8, 1980.

[4]Ex Parte No. MC–136, *Direct Routes for Regular Route Movements* (not printed), decided August 8, 1980.

[5]Ex Parte No. MC–142, *Elimination of Gateway Restrictions and Circuitous Route Limitations*; Ex Parte No. MC–142 (Sub-No. 1), *Removal of Restrictions from Authorities of Motor Carriers of Property*; and Ex Parte No. MC–143, *Owner-Operators Food Transportation*, 45 Fed. Reg. 6133 et seq. (1980).

[6]Ex Parte No. 311, *Expedited Procedures for Recovery of Fuel Costs* (not printed), decided June 15, 1979.

[7]Ex Parte No. 311 (Sub-No. 4), *Review of the Motor Carrier Fuel Surcharge Program* (not printed), decided May 15, 1980.

Environment

The focus of the ICC's environmental activities during fiscal year 1980 was on expediting the environmental reviews associated with Commission proceedings. The major vehicle for accomplishing this goal was a rulemaking proceeding to revise ICC environmental rules[6] implementing the National Environmental Policy Act of 1969. The rules would replace the Commission's old guidelines and were developed in response to the Council on Environmental Quality's revised regulations. Reporting and documentation burdens would be reduced significantly in the new rules. Procedural changes which will save time, resources, and money were also incorporated.

The rules would modify substantially the type of environmental documentation required for various classes of action. Many classes of action, including general freight rate proceedings, intercity bus fare adjustments, and applications for common use of rail terminals and trackage rights agreements, which require some form of environmental review, would be categorically excluded from review because they have never been found to have environmental significance. Other classes of action, most notably rail merger, control, and consolidation applications involving two or more Class I railroads, which require preparation of environmental impact statements, would require only preparation of environmental assessments. Only rail line construction proceedings would require preparation of environmental impact statements. The proposed rules would also refine environmental information to be contained in an application.

[6]Ex Parte No. 55 (Sub-No. 22), *Revision of Environmental Guidelines* (not printed), decided March 10, 1980.

RAILROADS

Fiscal year 1980 closed the day after the Conference Report on the Staggers Rail Act of 1980 was approved by Congress. Passage of the Staggers Act marked completion of a fiscal year in which substantial progress was made toward deregulation of the rail industry. The legislation incorporated many concepts previously advanced by the Commission, including revised standards for market dominance, discrimination, and car service. The act also provided specific policy standards for contract rates, broadened the ICC's exemption authority, modified joint rate and service relationships among railroads, and eased railroad entry. Shortened procedural time frames were imposed for merger, abandonment and rate proceedings, the Commission's rate investigation and suspension authority was reduced, and a firm foundation was laid for the removal of collective rate authority. The Commission had been reviewing all of these policy areas before the act was passed and was therefore in a position to move rapidly to implement the Staggers Act when President Carter signed the bill on October 14, 1980.

The year also witnessed considerable restructuring in the rail industry. Major cases before the Commission included the Grand Trunk Western's control of the Detroit, Toledo and Ironton Railroad and approval of the merger of the Chessie and Seaboard Coast Line Systems, and the merger of the Burlington Northern Railroad with the St. Louis San Francisco Railroad. (See Mergers, page 30.)

Directed rail service orders were issued to preserve essential rail service during the restructuring of the Chicago, Milwaukee, St. Paul and Pacific Railroad and the liquidation of the Chicago, Rock Island and Pacific Railroad (Rock Island). The Commission also reviewed the reorganization plans of both railroads. (See page 32.)

Finally, the Commission experienced a heavy caseload in two rate areas that are of critical long term financial concern to the industry and directly affect railroads' asset structure—coal and joint rate cases. These two issues continue to be matters of major concern to the Commission. (See Rates, page 36.)

Rail traffic for all of 1980 nearly matched the record 914 billion ton miles of 1979—a surprisingly good showing for a recession year. It is estimated that this result was helped considerably by an increase in coal traffic of about 50 billion ton miles. Second-half traffic for 1980 compared less favorably than full year results because of the adverse impact of mushrooming interest rates on many of the industries the railroads serve, e.g., autos and lumber. While financial results for the calendar year of 1980 are not yet available, for the 12 months ended September 30, 1980, revenues and ordinary income advanced to $27.6 billion and $939 million, respectively, from $24.3 billion and $812 million reported in the same period the year before.

The improvement in revenues for the latest available 12 month period was due to nearly a 10 percent increase in revenue per ton mile (a rough indicator of the rate level) and a moderate increase in ton miles. The relatively small gain in ordinary income of about $127 million on a rise of $3.3 billion in revenues reflects a $2.9 billion (12.5 percent) rise in operating expenses led by fuel, labor, and materials and supplies. As a point of interest, each one cent rise in the price of

diesel fuel cost the railroad industry over $40 million annually. Rising interest costs also adversely affected income. More importantly, it adversely affected the industry's ability to finance needed capital improvements.

Contrasting with these latest results, 1979 showed notably large gains in traffic and net income over 1978. Operating revenues rose 18.4 percent, outstripping the 16.5 increase in operating expenses. Rate increases combined with the 6.5-percent increase in ton miles (given the low short-term variability of rail expenses) to produce this result. Net railway operating income surged from $427 million to $794 million. In part, the gain in operating levels reflected a recovery from the strikes and winter weather emergencies that had dampened 1978 traffic. The Eastern District particularly benefited from the recovery, as well as from rate increases, with a deficit shrinking from $503 million in 1978 to $179 million in 1979. For the industry, however, return on net worth for 1979—at 5 percent—remained low when compared against an average 16.6 percent for major industries.

Mergers and Consolidations

The Commission proposed revisions to its General Policy Statement on rail mergers and consolidations in August 1980.[1] The proposed revisions provide greater clarity and brevity and reflect policies developed and expressed in recent consolidation decisions. The Commission continues to encourage private rail restructuring initiatives but disfavors control of a railroad without commitments to that railroad's service obligations. In its proposed policy, the Commission ties the congressional mandate to give railroads greater ratemaking freedom to the need to analyze critically the competitive impacts of a consolidation. Public interest considerations are incorporated into a balancing test which weighs potential benefits against potential harms. The proposed policy statement also addresses the imposition of protective conditions and sets forth specific factors the Commission would weigh in considering whether conditions should be imposed.

Also in August 1980, the Commission revised its procedural rules for handling consolidation cases.[2] In addition to exempting from regulation a class of railroads involved in certain minor transactions, the revised procedures are intended to reduce the preparatory burden on applicants, speed processing of applications, and provide the Commission with highly relevant data. Specifically, the changes reduce informational requirements for different types of applications, clarify information required in all applications, and expand procedures for handling, prosecuting, and opposing a transaction.

The Commission issued final decisions in four significant consolidation cases during the fiscal year.

In November 1979, the Commission approved the acquisition by Grand Trunk Western Railroad (GTW) of control of the Detroit, Toledo and Ironton Railroad Company (DT&I) and the Detroit and Toledo Shore Line Railroad Company (DTSL).[3] The Commission denied, for

[1] *Railroad Consolidation Procedures*, 363 I.C.C. 241 (1980).

[2] *Railroad Consolidation Procedures*, 363 I.C.C. 200 (1980).

[3] *Norfolk & W.R.Co.—Detroit, T. & I. R. Co.*, 360 I.C.C. 498 (1979).

competitive reasons, the competing applications of Norfolk and Western Railroad Company (N&W) and Baltimore and Ohio Railroad Company (B&O), each to acquire half the DT&I stock. An administrative law judge earlier had approved both applications but found the GTW proposal to be preferable. While gaining approval to control DTSL, GTW was given six months either to divest its interest in DTSL or to purchase the remaining 50-percent interest held by N&W, the co-owner, in order to eliminate the dual-ownership status of DTSL.

In March 1980, the Commission approved the merger of the St. Louis–San Francisco Railway Company (Frisco) into Burlington Northern Inc. (BN).[4] The merger will create a railroad network of over 30,000 miles, the longest in the Nation. Single-line service will be available between the Gulf Coast, the Midwest, and the Northwest.

In the third consolidation decided in fiscal year 1980, the Commission approved the purchase by St. Louis-Southwestern Railway Company, a subsidiary of Southern Pacific Transportation Company (SPT), of Rock Island's "Tucumcari Line" from Santa Rosa, NM, to Kansas City and St. Louis.[5] By giving SPT access to major midwestern gateways, this purchase allows the railroad to be more competitive on transcontinental traffic. The Commission denied the competing application of Missouri Pacific Railroad Company to acquire Rock Island's line between Kansas City and St. Louis.

Finally, in September 1980, the Commission approved the consolidation of the Chessie System and Seaboard Coast Line Industries into a railroad system which will include 16 separate railroad companies.[6] The new holding company is called CSX Corporation. The proposal was heavily contested initially, but opposition lessened as the case progressed. At the conclusion of the case, little significant opposition remained.[7] The consolidation will, for the first time, link under one rail system the Great Lakes, the Midwest, and the Northeast regions with the growing Southeast region. Significantly, the decision was issued nearly one year ahead of the statutory deadline imposed by the Railroad Revitalization and Regulatory Reform Act of 1976.

On September 15, 1980, the Union Pacific Railroad Company (UP), the Missouri Pacific Railroad Company, and the Western Pacific Railroad Company jointly filed applications seeking authority for the UP to control the Missouri Pacific and the Western Pacific Railroads. These applications, including related securities, trackage rights, and pooling applications, were accepted by the Commission.[8] The evidentiary phase of the proceeding must be completed by October 15, 1982.

In July 1980, the Commission proposed a rule describing how it will treat the imposition of traffic protective conditions in future railroad consolidation

[4]*Burlington Northern Inc.—Control & Merger—St. L.*, 360 I.C.C. 783 (1980).

[5]*St. Louis S.W. Ry.—Pur.—Rock Island (Tucumcari)*, 363 I.C.C. 320 (1980).

[6]*CSX Corp.—Control—Chessie and Seaboard C.L.I.*, I.C.C. (1980).

[7]Southern Railway and N&W were two railroads which sought CSX properties as a condition to the consolidation. Each settled its opposition with the applicants.

[8]Finance Docket No. 30,000, *Union Pacific Corporation and Union Pacific Railroad Company—Control—Missouri Pacific Corporation and Missouri Pacific Railroad Company*, and Finance Docket No. 30,000 (Sub-No. 1), *Union Pacific Corporation and Union Pacific Railroad Company—Control—The Western Pacific Railroad Company* (not printed), decided October 15, 1980.

proceedings and how it will interpret existing traffic protective conditions imposed in past consolidations.[9] These conditions have been routinely applied in most consolidation cases since 1950. The Commission proposed to eliminate protective conditions in all rail consolidations, past and present. A decision on the proposed rule will be made in fiscal year 1981, following analysis of public comments.

Reorganizations

The Commission retains jurisdiction under Section 77 of the Bankruptcy Act over five railroads in reorganization: The Boston and Maine Corporation; the Chicago, Rock Island and Pacific Railroad Company; the New York, Susquehanna and Western Railroad Company; the Chicago, Milwaukee, St. Paul and Pacific Railroad Company; and the Morristown and Erie Railroad Company. During the fiscal year, nine petitions were filed by trustees and counsel requesting the Commission to set maximum limits on their compensations, as required by the Bankruptcy Act.

Several plans of reorganization were filed by the trustee of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company and other interested parties but were found by the Commission not to be feasible. A new plan by the Trustee is anticipated in fiscal year 1981. Plans of reorganization in the form of liquidation were filed by the Chicago, Rock Island and Pacific Railroad Company and the New York, Susquehanna and Western Railroad Company and were pending at the close of the fiscal year.

Milwaukee Road Reorganization—In 1977, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Milwaukee) filed a petition for reorganization in United States District Court under the Bankruptcy Act. Since that time the Commission and the court, exercising their concurrent jurisdiction, have acted in a number of proceedings which concern the future of the Milwaukee.

In August 1979, the Milwaukee Trustee filed an application to abandon about 2,500 miles of rail lines from Miles City, MT, west to Seattle, WA, and south to Portland, OR. This constituted the longest proposed rail abandonment ever entertained by the Commission. The Commission held hearings on the application in Chicago and in Washington, Idaho, and Montana. While the abandonment application was pending, Congress passed the Milwaukee Road Restructuring Act (MRRA), which transferred from the Commission to the bankruptcy court final authority over the abandonment, sale and transfer of the lines of presently bankrupt railroads. In its decision[10] the Commission recommended that the bankruptcy court authorize abandonment of the lines but postpone actual abandonment pending disposition of a reorganization plan.

MRRA provided a mechanism for an employee and shipper coalition to submit to the Commission a plan to convert all or part of the Milwaukee into an employee- or employee-shipper-owned

[9]Ex Parte No. 282 (Sub-No. 5), *Rulemaking Concerning Traffic Protective Conditions in Railroad Consolidation Proceedings* (not printed), decided June 24, 1980.

[10]Docket No. AB 7 (Sub-No. 86), *Richard B. Ogilvie, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company—Abandonment—Portions of Pacific Coast Extension in Montana, Idaho, Washington, and Oregon* (not printed), decided January 29, 1980.

company. In December 1979, New Milwaukee Lines (New Mil), a coalition of Milwaukee employees, shippers, and representatives of several Northern tier states, filed such a plan. Thirty days later, the Commission disapproved the plan, finding it infeasible.[11]

Several plans for reorganization of the Milwaukee were submitted for Commission approval in September and October 1979. The Trustee submitted a plan which would have allowed continuation of service in the Midwestern "core"; New Mil filed a plan which would have continued service between the Midwest and the Pacific Northwest; and the Chicago Milwaukee Corporation, a holding company which owns the majority of the Milwaukee's outstanding capital stock, filed a proposal for liquidation.[12]

After taking evidence and hearing oral argument on the proposed reorganization plans, the Commission issued a decision[13] in which it found that none of the plans meet the statutory requirements of the Bankruptcy Act.[14] The Commission stated that, while it was unable to approve those proposed plans, it did not intend to suggest that the Milwaukee could not be successfully reorganized, and it retained jurisdiction to entertain new or revised plans for reorganization. Under the Bankruptcy Act, the Commission's disapproval precluded the bankruptcy court from implementing any of those plans.

The court then authorized cessation of operations of most lines outside the Trustee's core, effective April 1, 1980. Subsequently, on May 8, 1980, the Commission recommended that the Trustee be permitted to abandon approximately 2,000 miles of line in South Dakota, Iowa, and Nebraska.[15]

Both the Commission and the court have sought to lessen the impact on shippers of an abrupt loss of service on lines outside the Trustee's core. The MRRA enabled the court to authorize interim operations over a line by the carrier after an application to purchase the line has been filed with the Commission. The court has authorized interim service over a number of lines under this authority.

In addition, using authority granted in Section 122 of the Rock Island Transition and Employee Assistance Act (RITEA), P.L. 96–254, the Commission issued Service Order No. 1474 authorizing railroads to provide temporary service over Milwaukee lines. Service under this order can be performed by railroads before a purchase agreement and application have been filed with the Commission, and thus prevent an interruption in service before the court can authorize interim service under the MRRA.

[11]Finance Docket No. 29171, *Richard B. Ogilvie, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company—Submission under Section 6 of the MRRA (not printed)*, decided *December 31, 1979*.

[12]The bankruptcy court had authorized the Trustee to cease operations outside the Trustee's proposed midwestern core, effective November 1, 1979, due to a lack of funds. The MRRA enabled the trustee to borrow money to finance service until March 1, 1980.

[13]Finance Docket No. 28640 (Sub-No. 5), *Chicago, Milwaukee, St. Paul and Pacific Railroad Company Reorganization (Plans of Reorganization)* (not printed), decided March 19, 1980.

[14]Section 77 of the Bankruptcy Act, 11 U.S.C. § 205, required that, for the Commission to approve a reorganization plan, it must be fair and equitable to the estate and tend to preserve rail service.

[15]Docket No. AB 7 (Sub-No. 88), *Richard B. Ogilvie, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company—Abandonment in South Dakota, Iowa and Nebraska* (not printed), decided May 8, 1980.

The Commission has decided more than ten proceedings under the MRRA involving sale or transfer of lines of the Milwaukee to both rail carriers and non-rail carriers. Several more proceedings are pending. In one proceeding, significant because a state government was the purchaser, the State of Wisconsin was authorized to acquire about 375 miles of Milwaukee lines.[16] These lines will be operated by new companies organized by local governments to continue rail service.

The most extensive Milwaukee purchase proceeding involved four applications, filed in May and June 1980, for purchase of various Milwaukee properties. Two of these were filed by existing railroads, the Burlington Northern and the Union Pacific. These companies each applied for trackage and terminal facilities which connect with their existing system. These applications primarily sought properties in Washington, Montana, and Idaho; in addition, the Burlington Northern requested selected properties in North Dakota, South Dakota, Minnesota, and Wisconsin. The Commission's recommendation to the bankruptcy court approved both applications.[17]

The other two major applications reviewed in this proceeding were filed by non-carriers. The Montana Railway Corporation sought to purchase over 1,200 miles of track (some of which was concurrently sought by the Burlington Northern and the Union Pacific) located in Montana, Idaho, and Washington. In addition, Bennett Lumber Products, Inc., a shipper, filed an application for 47 miles of track between Palouse, WA, and Bovill, ID. That segment was also included in the Burlington Northern's application.

These two applications did not contain enough information for the Commission to determine whether the applications were in the public interest. Since the Commission did not wish to deny the bankruptcy court the opportunity to approve the applications in the event the applicants submitted more information, the Commission expressly took no action on them. That resolution preserves the right of the court to approve those applications.

Rock Island Reorganization—The Commission issued several service orders during the year to maintain rail service over the Chicago, Rock Island and Pacific Railroad (Rock Island) system. When Rock Island's cash position made continued operations impossible, the Commission directed the Kansas City Terminal Railway Company (KCT) to operate the Rock Island.[18] These operations started October 5, 1979, and continued through March 23, 1980, when lack of funds prevented further operations under federal subsidy.

The Illinois Regional Transportation Authority (RTA) was authorized to provide service over the Chicago–Joliet, IL, line without federal subsidy until May 31, 1980, to continue commuter service.[19]

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[16]Finance Docket No. 29237, *State of Wisconsin—Acquisition of Certain Lines of Chicago, Milwaukee, St. Paul and Pacific Railroad Company* (not printed), decided January 30, 1980, and February 28, 1980.
[17]*Burlington Northern Inc.—Pur.—Chicago, M., St. P.*, 363 I.C.C. 298 (1980).

[18]*Kansas City Term. Ry. Co.—Operate—Chicago, R. I. & P.*, 360 I.C.C. 289 (1979).
[19]Directed Service Order No. 1537, *Regional Transportation Authority—Directed Service—Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) over Chicago Commuter Line* (not printed), decided March 20, 1980.

Continued freight service was provided by various interim service orders; however, a court decision determined that the Commission did not have authority to authorize temporary operations over mainline tracks.[20] The Commission then authorized various railroads to perform directed operations over Rock Island lines, without federal subsidy, until May 31, 1980.[21]

On May 30, 1980, enactment of RITEA enabled continuation of interim rail service. To avoid interruption of existing interim operations, the Commission, on the day RITEA was enacted, issued two service orders authorizing continued commuter[22] and freight[23] service. RITEA also included an appropriation of funds for directed service under federal subsidy. These funds were made available to subsidize directed service over Rock Island lines for which an appropriate certification is made by the Secretary of Transportation. The Commission directed service over designated lines during the 1980 grain harvest season.[24]

While service over segments of the Rock Island was being continued by other carriers, its reorganization proceeded at a fast pace.

On December 28, 1979, a reorganization plan was filed with the bankruptcy court and the Commission. On January 25, 1980, however, the bankruptcy court deemed the plan to be without merit and refused to forward it to the Commission.

An application to abandon the entire Rock Island system was filed on April 24, 1980. Under an expedited procedure, the Commission issued a recommendation to the bankruptcy court recommending abandonment and discontinuance over the entire system except for specific lines where interest was expressed for continuing rail service.[25]

Numerous proposals to acquire and operate lines of the Rock Island have been received. Two that were decided by the end of the fiscal year involve Missouri Pacific's acquisition of 38 miles in Arkansas,[26] and the Oklahoma, Kansas and Texas Railroad's lease of about 800 miles of Rock Island line between St. Joseph, MO, and Dallas, TX.[27] Other applications involve lines in Illinois, Iowa, Missouri, Kansas, Nebraska, Colorado, New Mexico, Oklahoma, Texas, Arkansas, and Louisiana. These applications were pending decision at the end of the fiscal year.

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[20]Nos. 79-2461 and 79-2478, *Atchison, Topeka & Santa Fe Railway Company v. United States*, (7th Cir. March 20, 1980).

[21]Directed Service Order No. 1462, *Various Railroads—Directed Service—Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)* (not printed), decided March 28, 1980.

[22]Directed Service Order No. 1437, Supplemental Order No. 3.

[23]Service Order No. 1473, *Various Railroads Authorized to Use Tracks and/or Facilities of the Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)* (not printed), decided May 30, 1980.

[24]Directed Service Order No. 1482, *Various Railroads—Directed Service—Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)* (not printed), decided August 15, 1980, and supplements thereto.

[25]Docket No. AB-46 (Sub-No. 22), *Chicago, Rock Island, and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)—Abandonment—Entire System* (not printed), decided May 23, 1980.

[26]Finance Docket No. 29311, *Missouri Pacific Railroad Company—Purchase (Portion)—Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) between Haskell via Butterfield and Hot Springs, AR, and between Malvern and Butterfield, AR* (not printed), decided July 14, 1980.

[27]Finance Docket No. 29372, *Oklahoma, Kansas and Texas Railroad Company—Lease (Portion)—Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) between St. Joseph, MO, and Dallas, TX* (not printed), decided September 8, 1980.

Securities

One hundred and one applications and 18 petitions for modification of previous authorities to issue securities were filed by railroads, including 12 applications for exemptions from the requirements of competitive bidding.

Railroads were authorized to issue approximately 25,290,663 shares of stock for all purposes; $396,788,217 principal amount of notes; and $139,028,500 in bonds. In addition, railroads were authorized to assume obligation and liability as guarantor with respect to $841,047,457 principal amount of notes and $155,000,000 principal amount of bonds and to pledge $504,274,000 principal amount of bonds.

Borrowings have not been deterred by the continuing volatility of interest rates during the fiscal year.

Rates

To improve rail car utilization and to address car shortages and surpluses, the Commission revised the formula for computing car-hire charges and directed railroads to implement these revised charges by car type and update their charges in accordance with the Commission's compensation formula.[28] The car compensation formula was developed in accordance with Section 212 of the Railroad Revitalization and Regulatory Reform (4R) Act and is designed to encourage the purchase, acquisition, and efficient use of freight cars.

Responding to an increasing surplus of freight cars, the Commission permitted downwardly flexible car-hire pricing to promote better car utilization and to conserve energy resources.[29] The Commission also repealed the existing incentive per diem rules and charges applicable to certain equipment that had been in short supply since basic per diem charges, as raised, were found sufficient to ensure an adequate supply of rail cars.[30] Regulations governing the use of as yet undispersed incentive per diem funds were concurrently adopted.[31]

The Commission has taken a number of actions in the related areas of revenue adequacy, general rate increases, costing methods, and rate bureau activity.

A rulemaking was instituted to modify Commission regulations on the filing of rail general rate increases, cost indexing, and zone of reasonableness procedures, as part of an effort to ease the railroad ratemaking process by reducing filing and reporting burdens on the industry.[32] The Staggers Rail Act of 1980 requires related actions consistent with the thrust of these rulemakings.

A proceeding to interpret the minimum rate provisions of the 4R Act was under way at the close of the fiscal year and will be reviewed in light of the Staggers Act.[33]

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[28]Ex Parte No. 334, *Car Compensation—Basic Per Diem Charges—Formula Revision in Accordance with the 4R Act* (not printed), decided May 19, 1980; petition for reconsideration denied September 23, 1980.

[29]Ex Parte No. 334 (Sub-No. 4), *Order Granting Railroad Flexibility in Setting Per Diem Levels* (not printed), decided August 12, 1980.

[30]Ex Parte No. 252 (Sub-No. 5), *Elimination of Incentive Per Diem Charges* (not printed), decided August 14, 1980.

[31]Ex Parte No. 252 (Sub-No. 3), *Use of Incentive Per Diem Funds* (not printed), decided August 14, 1980.

[32]Ex Parte No. 290 (Sub-No. 2), *Railroad Cost Recovery Procedures* (not printed), decided April 22, 1980. Ex Parte No. 290 (Sub-No. 3), *Modification of Rail Carrier General Increase Procedures* (not printed), notice of proposed rulemaking decided May 29, 1980.

[33]Ex Parte No. 355, *Cost Standards for Railroad Rates*, 362 I.C.C. 799 (1980).

The Commission approved a nationwide rate increase with numerous variations reflecting selected markets.[34] Then, in a series of three proceedings, a two-phase rail general increase was approved, reflecting regional variations but limiting proposed increases on certain commodities to percentages not exceeding the average cost increases per region and between region.[35] Spending restrictions and reporting requirements on deferred maintenance and capital expenditures imposed on the railroads in a 1974 general rate increase proceeding were found no longer appropriate and were removed.[36]

A major decision denied approval of existing rate bureau agreements between and among railroads of the Western Railroad Traffic Association, the Southern Freight Association, the President's Traffic Conference, and the Traffic Executive Association—Eastern Railroads. The ICC concluded that the bureaus had not shown that their agreements furthered the national transportation policy and were in the national interest.[37] At the close of the fiscal year, the Commission was revising the decision in light of the Staggers Rail Act of 1980.

Focusing on the adequacy of railroad revenues and financial strength, the Commission determined that Class I railroads whose return on net investment ranges from 7 to 10.6 percent are earning adequate revenues. Only 13 of the Nation's 36 Class I railroads were found to be earning adequate revenues under the new standards.[38] The Commission instituted a proceeding to make a current determination of the railroads' cost of capital.[39]

In exercising jurisdiction over individual rail rates, the Commission has encouraged ratemaking freedom and competitive and innovative ratemaking towards the congressionally mandated goal of revenue adequacy. In a notice of proposed rulemaking, the Commission proposed additional flexibility in railroad "demand-sensitive" rate setting, requesting comments on rules which would permit carriers to implement surcharges or discounts up to 15 percent of the base rate on short notice.[40] In a policy statement, the Commission said it would consider contract allegations raised in proceedings. Rulemakings were instituted on requirements for contract rates[41] and to consider specific problems related to the filing and regulation of contract rates.[42]

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[34]Ex Parte No. 368, *Increased Freight Rates and Charges Nationwide—1979* (not printed), decided October 5, 1979.

[35]Ex Parte No. 374, *Increased Freight Rates and Charges—Western Railroads—Two Percent—1980* (not printed), decided February 21, 1980; Ex Parte No. 375, *Increased Freight Rates and Charges—Nationwide—1980* (not printed), decided March 18, 1980; and Ex Parte No. 375 (Sub-No. 1), *Increased Freight Rates and Charges—1980—Nationwide—1980* (not printed), decided July 3, 1980, pending administrative appeal.

[36]*Nationwide Increase of Freight Rates and Charges, 1974*, 364 I.C.C. 79 (1980).

[37]*Western Railroads—Agreements*, 364 I.C.C. 1 (1980).

[38]Ex Parte No. 353, *Adequacy of Railroad Revenue (1978 Determination)*, 362 I.C.C. 794 (1980), and *Adequacy of Railroad Revenue (1979 Determination)*, 362 I.C.C. 344 (1980).

[39]Ex Parte No. 381, *Adequacy of Railroad Revenues (1980 Determination)* (not printed), notice decided April 22, 1980.

[40]Ex Parte No. 324 (Sub-No. 1), *Standards and Expeditious Procedures for Establishing Railroad Rates Based on Seasonal, Regional, or Peak-Period Demand for Rail Service* (not printed), notice of proposed rulemaking decided February 8, 1980.

[41]Ex Parte No. 358, *Change of Policy, Railroad Contract Rates* (not printed), decided February 21, 1980.

[42]Ex Parte No. 358 (Sub-No. 1), *Change of Policy, Railroad Contract Rates (Standards and Procedures)* (not printed), notice of proposed rulemaking and exemption decided April 17, 1980.

The Commission has also tried to encourage individual rail initiatives in areas where standards were traditionally imposed for the industry as a whole. For example, in a proposal to repeal the existing rules governing credit extension, railroads would be permitted to publish rules meeting individual needs.[43]

The Commission denied several petitions to stay the effectiveness of its decision to deregulate rail transportation of various edible commodities[44] and, to promote competition, proposed to exempt specific categories of high-volume rail transportation.[45]

Coal rate decisions were among the most controversial issued during the past year. A court decision remanded to the Commission a proceeding involving the prescription of a maximum reasonable freight rate on coal rail shipments originating in Wyoming and destined to San Antonio, TX.[46] The Commission is considering establishing rate guidelines for coal movements.[47] In another decision, the Commission gave a detailed explanation of its action approving a substantial rate increase on coal movements of the Louisville and Nashville Railroad Company to assist the railroad in achieving adequate revenues and to improve its return on investment.[48] An Iowa utility was awarded $2,847,186.97 in reparations for excessive rail freight rates charged on coal moving from Wyoming.[49]

Market dominance plays an important role in rate regulation. Under provisions of the *Railroad Revitalization and Regulatory Reform Act of 1976*, a finding of market dominance is necessary before a rail rate may be found unreasonably high. In 1976, the Commission adopted new regulations for determining market dominance.[50] The Commission has proposed to modify its regulations governing tests used for determining market dominance in maximum rate reasonableness cases.[51]

Finally, in other rate areas, regulations have been adopted with the goal of improving, simplifying, and modernizing tariffs by reducing their size, complexity, and cost; standardizing their formats; and promoting greater compatibility with electronic technology.[52] Regulations were also proposed permitting railroads to meet more readily rerouting emergencies without first obtaining Commission approval, as long as they meet certain safeguard rules.[53]

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[43]Ex Parte No. 73, *Regulations for Payment of Rates and Charges* (not printed), notice of proposed rulemaking decided April 30, 1980.

[44]Ex Parte No. 346 (Sub-No. 2), *Rail General Exemption Authority—Miscellaneous Commodities* (not printed), decided March 21, 1980.

[45]Ex Parte No. 346 (Sub-No. 3), *Rail General Exemption Authority—Long and Short Haul Transportation* (not printed), notice of proposed rulemaking decided October 11, 1979.

[46]No. 78-205, *San Antonio* v. *United States*, No. 78-2051 (D.C. Cir. June 9, 1980).

[47]Ex Parte No. 347, *Western Coal Investigation—Guidelines for Railroad Rate Structure*.

[48]No. 37063, *Increased Rates on Coal, L&N Railroad Company* (not printed), decided October 31, 1979.

[49]No. 37021, *Annual Volume Rates on Coal—Rawhide Junction, Wyo., to Sergeant Bluff, Ia.*, and No. 37029, *Iowa Public Service Company* v. *Burlington Northern, Inc. and Chicago and Northwestern Transportation Company* (not printed), decided May 9, 1980.

[50]Ex Parte No. 320, *Special Procedures for Making Findings of Market Dominance* (not printed), decided October 1, 1976.

[51]Ex Parte No. 320 (Sub-No. 1), *Railroad Market Dominance and Related Considerations* (not printed), notice of proposed rulemaking decided December 18, 1980.

[52]Ex Parte No. 370, Tariff Improvement (not printed), decided August 14, 1980.

[53]Ex Parte No. 376, Rerouting of Traffic, 364 I.C.C. 175 (1980).

Abandonments

Railroads filed 130 applications for authority to abandon 4,784 miles of rail lines in fiscal year 1980. The Commission acted on 108 applications, granting 105 and denying 3, permitting abandonment of 2,321 miles of rail lines.

In addition, there were 33 abandonment applications involving 5,259 miles which were either withdrawn by the applicants or not acted on because of lack of jurisdiction. The majority of these applications (27 involving 5,122 miles) were filed by either the Chicago, Milwaukee, St. Paul and Pacific Railroad Company or the Chicago, Rock Island, and Pacific Railroad Company. The reorganization of both these carriers, including the abandonment of their lines, is discussed in the Railroad Reorganizations section (page 32).

The Commission issued a policy statement concerning the appropriate use of opportunity costs as a factor in approving abandonments.[54] Finding that opportunity costs are often a significant factor in determining whether continued operation of a line imposes a burden on the railroad and interstate commerce, the Commission advised the industry that they were welcome to offer evidence of their opportunity costs in future abandonment cases. Potential protestants were invited to respond to that evidence. The validity of the method used to arrive at the opportunity costs figure and the importance of opportunity costs as a factor in the public convenience and necessity test will be determined on a case-by-case basis.

[54]*Abandonment of Railroad Lines—Use of Opportunity Costs*, 360 I.C.C. 571 (1980).

The Commission has been actively considering thorough revisions of its railroad abandonment regulations in line with recent administrative, judicial, and legislative developments. In response to a court decision,[55] the Commission proposed changes to the subsidy-related accounting standards in the abandonment regulations.[56] Public comments had been received on these proposals, and final rules were under consideration at the close of the fiscal year. Further revisions to the regulations were being developed to reflect the requirements of the Staggers Rail Act of 1980.

Passenger Service

The Commission's authority over Amtrak's adequacy of service was repealed by the Amtrak Reorganization Act of 1979,[57] eliminating the ICC's adequacy of service regulations[58] such as minimum standards for reservations, station operations and conditions, and on-board services.

The new law also directed that Amtrak establish goals, including a 50-percent improvement in on-time performance and a system-wide average speed of 55 miles per hour. It additionally required Amtrak to establish a reduced fare program for elderly and handicapped individuals.

[55]*Chicago & North Western Transp. Co. v. U.S.*, 582 F.2d 1043 (7th Cir. 1978), *cert. denied* 439 U.S. 1039 (1978).

[56]Ex Parte No. 274 (Sub-No. 2), *Abandonment of Railroad Lines and Discontinuance of Service* (not printed), decided March 20, 1979.

[57]P.L. 96–73, 93 Stat. 537–558.

[58]49 C.F.R. Part 1124 *et. seq.*

ICC field monitoring of Amtrak station and on-board facilities and the Commission's previously active involvement with Amtrak in recording and processing passenger complaints were terminated. In place of Commission oversight, Amtrak train conductors are to report equipment or personnel failures to the Amtrak Performance Evaluation Center. Every six months Amtrak must submit a report to both houses of Congress and the Department of Transportation on the Center's activities. Passenger complaints received by the Commission are forwarded to Amtrak for handling.

The Commission received approximately one thousand complaints against the Auto-Train Corporation last year. Auto-Train operates between Lorton, VA, and Sanford, FL, providing transportation of passengers and their automobiles on the same train. The complaints generally involved delayed refunds for advance fare deposits or for tickets purchased and not used. Auto-Train filed a petition for reorganization under the bankruptcy laws on September 8, 1980. Commission staff has made available to complainants the appropriate forms to submit to the bankruptcy court to establish their claims against the carrier's estate.

The Commission authorized the Durango and Silverton Narrow Gauge Railroad Company to acquire and operate the Silverton Branch, which had been operated by the Denver and Rio Grande Western Railroad Company primarily as a seasonal passenger train service between Durango and Silverton, CO, a distance of 45 miles.[59]

On October 15, 1979, the Magner-O'Hara Scenic Railway filed an application for a certificate of public convenience and necessity to operate a scenic passenger railway from Detroit to Traverse City, MI, by acquiring trackage rights over three existing rail carriers. A Commission employee review board denied the application because there was no agreement between the parties.[60] The Commission was considering the applicant's administrative appeal at the close of the fiscal year, and the board's decision was stayed pending final disposition.

Agreement was reached between the Southern Pacific Transportation Company (SP) and the State of California allowing continuation of commuter rail service between San Francisco and San Jose, CA. SP had originally proposed abandoning this passenger service.[61] The agreement went into effect on July 1, 1980, but the Commission was still considering exceptions to the initial decision at the end of this fiscal year.

Exemptions

The Commission continued its efforts to reduce unnecessary regulatory burdens by exempting from ICC jurisdiction a broad spectrum of individual railroad proposals with minimum transportation impact. In the past year, the Commission adopted six categories of exemptions:[62]

[59]Finance Docket No. 29096, *Durango and Silverton Narrow Gauge Railroad Company—Acquisition and Operation* (not printed), decided December 16, 1980.

[60]Finance Docket No. 29161, *Magner-O'Hara Scenic Railway—Operation—In the State of Michigan* (not printed), decided July 10, 1980.

[61]Finance Docket No. 28611, *Southern Pacific Transportation—Discontinuance of Commuter Service, San Francisco–San Jose.*

[62]Ex Parte No. 282 (Sub-No. 3), *Railroad Consolidation Procedures*, 363 I.C.C. 200 (1980).

(1) Acquisition of a rail line which would not constitute a major market extension where the Commission has found that public convenience and necessity permit abandonment;

(2) Acquisition of a nonconnecting carrier or one of its lines where the railroads would not connect with each other or any railroads in their corporate family; the acquisition is not part of a series of anticipated transactions that would connect the railroads with each other or any railroads in their corporate family; and the transaction does not involve a Class I carrier;

(3) Transactions within a corporate family that do not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family;

(4) Renewal of leases or trackage rights contracts and any other matters where the Commission has previously authorized the transaction and where only an extension in time is involved;

(5) Joint projects involving the relocation of a railroad line which does not disrupt service to shippers; and

(6) Reincorporation in a different state.

Freight Car Service

Freight carloadings during the fiscal year were down approximately five percent from those in fiscal year 1979. Grain and coal traffic, representing nearly a third of all carloads, were above the previous year's levels by 15 and eight percent, respectively, partially offsetting the recession's effect on railroads.

A shortage of certain car types (covered hopper cars, open hopper cars, boxcars and gondolas) persisted into the first quarter of fiscal year 1980. By the beginning of the second quarter, however, this net shortage had become a net surplus, except for covered hopper cars and gondola cars which remained in short supply until about May.

To assist grain shippers during the period of critical car shortages, the Commission issued several key service orders which provided for greater flexibility in rail car use. One service order authorized the Illinois Central Gulf Railroad Company to substitute open hopper cars for covered hopper cars for unit-train shipments of grain;[63] another service order authorized all railroads to substitute open hopper cars for covered hoppers or boxcars for shipments of grain, grain products, soybeans, and sunflower seed;[64] and a service order was issued authorizing railroads to substitute sufficient numbers of smaller cars for larger cars ordered but unavailable to transport shipments of numerous commodities.[65]

Additional emergency service orders were issued authorizing new short line railroads to begin operations over tracks controlled by larger railroads, pending disposition of applications for permanent authority.

In a decision which greatly affects future freight car service matters, the Commission rescinded its car service rules

[63]Service Order No. 1405, Illinois Central Gulf Railroad Company Authorized to Use Open Hoppers in Unit-Train-Trains, decided October 26, 1979.
[64]Service Order No. 1749, Substitution of Hopper Cars for Covered Hopper Cars or Boxcars, decided July 30, 1980.
[65]Service Order No. 1480, Distribution of Freight Cars, decided July 31, 1980.

with the exception of rule 15.[46] In reaching its decision the Commission compared 10 years of data which were found to justify the original prescription and the data for the 8-year period following the effectiveness of the prescribed rules. The comparison generally indicated that the overall number of cars and, in particular, the supply of general purpose cars had continued to decline while the average daily number of unfilled car orders had continued to grow. The analysis of comparative data on turnaround time, loaded to total mileage, average number of trips per car per year, and ton-miles per serviceable car-day indicated that at best fewer cars were hauling an equivalent annual tonnage longer distances but that the average car was not being used any more efficiently than in the past.

Finally, the Commission found that circumstances had changed dramatically in the car distribution area. Such developments as (1) the adoption of realistic per diem charges to spur car acquisition, (2) the concept of flexible per diem, (3) the development of advanced computer technologies to track cars, (4) the success of various car service experiments, and (5) the enforcement powers delegated to the Association of American Railroads' Car Service Division under Car Hire Rule 19 were cited.

On balance, the Commission concluded that the car service rules had not proven successful and that the rail industry's potential for increased productivity should not remain tied to a set of rules developed at the turn of the century when knowledge of actual car movements was unavailable.

Rule 15 was not rescinded, however. This rule requires serving carriers to maintain a written record of cars ordered for loading. The purpose is to enable carriers to make a proper selection of equipment for the intended loading and to provide a firm basis for starting demurrage calculations on cars placed for loading. The rule also gives to lines performing switching service the right to select cars to be used for loading in road-haul service via another carrier, but it also gives the right to call upon connections for such cars. Line-haul carriers, requested by their switch connections to furnish cars for return loading, are obligated to furnish such cars on the same basis as they furnish cars to industries directly served. Unlike the rescinded rules, Rule 15 does not require the carrier to move cars.

Class I railroads had a net retirement of 40,684 freight cars from a total of 1,221,174 owned October 1, 1979. Aggregate carrying capacity decreased 1,400,000 tons to 93,058,000 tons. The average capacity per car rose to 78.83 tons up from 77.35 tons a year ago. Over a 10-year period there was a net gain of 12 tons per car in carrying capacity but a net loss of 2,724,000 tons of aggregate capacity, due to the decrease in ownership. The average capacity of installations during the year was 92 tons per car, compared with 66 tons per car retired.

Offsetting the 1980 decrease in revenue cars of Class I carriers was the 60,736 car increase posted by private car owners, Class II lines, and switching and terminal companies.

[46]Investigation of Adequacy of Freight Car Ownership, 362 I.C.C. 844 (1980).

Freight car retirements in fiscal year 1980 included 29,074 plain boxcars. Acquisitions included 12,917 covered hoppers, mostly high-capacity types designed to move heavy volumes of grain and other dry-bulk commodities, and 4,465 equipped boxcars for specialized loadings.

Class I railroads increased their locomotive ownership from 27,755 on October 1, 1979, to 28,596 on October 1, 1980, an increase of 841 units. Aggregate horsepower increased from 62,321,600 to 65,056,440 for an increase of 2,734,840 horsepower. As of October 1, 1980, Class I railroads had 533 diesel locomotives on order, including 163 multi-purpose and 370 freight units. Additionally, there were 62 rebuilt units on order, including 19 multi-purpose, 40 freight and 3 switch units.

TRUCKING COMPANIES

During Fiscal 1980 motor carrier regulation underwent dramatic reform. Exercising its powers under the old Interstate Commerce Act, the Commission had already begun to consider options for the liberalization of entry into the motor carrier industry. At the request of Senator Cannon, Chairman, Senate Commerce, Science, and Transportation Committee in late October, the Commission tabled any such specific actions until passage of new legislation and commenced to work with the Congress on development of what was to become the *Motor Carrier Act of 1980*.

Passage of the Act demonstrated that the Congress and the Chief Executive agreed with the Commission that a more liberal regulatory structure could improve both efficiency and fairness. It would lower transportation costs, increase the types and qualities of service available, and encourage innovation, benefiting users of transportation, those who desire to begin providing new or additional motor transportation service, and consumers in general. The Act expresses the belief of Congress that substituting the commands of a competitive marketplace for the directives of the Commission wherever possible is the best way of achieving these objectives.

Passage of the Act endorses the notions that easy entry would facilitate the development of more efficient and competitive markets once regulation was reduced, and that trucking is characterized by relatively low fixed costs, which indicates that the development of stable markets and effective competition will result from a relaxing of entry standards. Therefore, a broad consensus developed that competition, especially entry or the threat of entry, should be relied on to force carriers to use resources efficiently, force rates to reflect costs, and guarantee that desired qualities of service are available to all shippers.

Anticipating significant regulatory change, the Commission held a joint Federal State Workshop on motor carrier regulation, from which has emerged a continuing dialogue between state and federal agencies on issues affecting the motor carrier industry. A second Federal State conference was held September 22, 1980, on regulation of the intercity bus industry. This conference was preceded by open Commission conferences on the subject in October 1979 and March 1980.

The Commission prepared various rule makings for immediate implementation of the Act, and has begun the mandated studies of small community service, uniform state regulations, and food transportation. In addition, other numerous studies have begun in order to assess the effects of regulatory reform on shippers, carriers and the general public.

The Commission considered the issue of fitness under relaxed entry in an Open Conference on May 27, 1980. Fiscal 1980 was also marked by development of the record in the consideration of motor carrier rate levels and new rate bureau requirements. In addition to assisting the Congress in developing reform legislation for the household goods moving industry, the Commission has begun to implement this legislation.

During Fiscal Year 1980 regulated carrier expenses continued to rise, sparked by fuel price increases of 13% during the year (99.9¢ per gallon to 113.2¢). A downward trend in tonnage, caused primarily by the general economic downturn, continued throughout the year.

Figures for the largest 100 motor carriers (excluding United Parcel Service) for the 12 months ending September 30, 1980 indicate a drop of 15.5% in tonnage transported as compared with the previous year. At the same time, operating revenues rose 5.2% and operating expenses from 6.0%. Although there were mixed results among carriers, the general pattern was one of net income levels 16.1% below the previous year. (These numbers are calculated before any extraordinary write-offs of operating rights.) Thus the 1980 results continued to reflect a period of financial difficulty for the carriers.

The Motor Carrier Act of 1980, which became law on July 1, 1980, brought into being the most significant change in federal motor truck regulation since 1935. Congressional action gave new impetus to some regulatory revisions which the Commission had already initiated, and established guidelines for further development of a more competitive and efficient motor carrier industry.

At year end, implementation of new rules and regulations to conform with legislative changes was well underway. Within the short three month period between passage of the Act and the end of our fiscal year, there was already evidence of dramatic change. Increases in entry applications for new or broadened common carrier authorities, independent rate actions with innovative new concepts, contract carriage expansions, and filings under revised intercorporate hauling regulations all reflected a rapid move toward the creation of a more competitive market environment.

Mergers and Unifications

To implement provisions of the Motor Carrier Act of 1980, the Commission issued interim rules[1] that change the processing of applications to purchase, merge, consolidate, lease or control a trucking company's operating rights or properties. To meet new statutory time limits for deciding such applications, the new procedures require that applications are complete when filed, without recourse to subsequent amendments. The interim rules also set specific processing phases and a general streamlining of the entire application filing process.

The Commission is examining the role of competitive factors in motor finance proceedings.[2] This proceeding is designed to simplify the application process; modify priorities in finance proceedings so that scarce agency resources can be committed to transactions with compelling public interest and competitive consequences; and avoid or minimize the serious impact which anticompetitive transactions will have on the general public and the economy.

The Commission's "summary grant" procedures for processing finance applications and operating authority applications directly related to those finance proceedings became effective on November 1, 1979.[3] The new rules provide that a complete and properly filed application

[1]Ex Parte No. 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349* (not printed), decided June 26, 1980.

[2]Ex Parte No. 55 (Sub-No. 38F), *Antitrust and Competition Factors*, 121 M.C.C. 657 (1980).

[3]Ex Parte No. 55 (Sub-No. 35), *Summary Grant Procedures, (FInance)* (not printed), decided July 5, 1979.

to purchase, control, lease, or merge operating rights or properties would be reviewed initially for sufficient evidence. A summary of the application would then be published in the *Federal Register* as a decision-notice which conditionally granted the authority; and, if the application were unopposed, a Notice of Effectiveness would be issued. If the application were protested, the proceeding would be handled by modified procedure or oral hearing.

Between November 1, 1979, and June 30, 1980, 233 applications were filed under the summary grant procedures, averaging 29 per month. Two hundred of the applications received decision-notices,[4] and 112 were issued effective notices.

The summary grant procedures were not affected by passage of the Motor Carrier Act, and applications are still being processed under these rules. Passage of the act did, however, significantly reduce the number of applications—between July 1, 1980, and October 15, 1980, only 49 applications were filed, averaging 14 per month. Thirty-seven of these applications received decision-notices.[5]

Reorganizations

The ICC's role in reorganizations is limited to submitting comments on reorganization plans referred to the Commission by the courts. No reorganization plans were received during the fiscal year. Trucking firms in bankruptcy frequently sell their operating properties rather than attempt reorganization.

Securities

In fiscal year 1980, 120 applications and 17 petitions were filed for authority to issue securities or modify prior authority.

Trucking companies were authorized by the Commission to issue 7,524,936 shares of stock for all purposes, $99,000,000 in bonds, and $215,013,161 principal amount of notes. The companies also were authorized to assume obligation and liability as guarantor with respect to $8,652,000 of bonds and $27,051,000 principal amount of note.

Interest rates on loans continued to be volatile during the year. This did not, however, decrease the level of loans. The need for revenue equipment and facilities was a primary factor in industry decisions to borrow despite high money costs.

The Commission considered liberalizing its policy on granting authority to be used primarily as an incident to the transportation of a company's own goods and to its own non-transportation business but concluded that it lacked the statutory authority to exempt those companies from filing securities applications and recommended to Congress that legislation for such an exemption be enacted.[6]

Rates

In the area of rate regulation, the Commission instituted a proceeding to consider a "no suspend" zone, applying only to individually-published rates and not to

[4]The difference from the filed figure results from 17 proceedings being dismissed because they were filed under the wrong section of the law and 16 were pending on review.

[5]The remaining 12 applications were either rejected or redocketed under the appropriate section of the law.

[6]Ex Parte No. MC–118 (Sub-No. 1), *Policy Statement Concerning Jurisdiction Over Securities Issuances for Companies Obtaining Authority Under MC–118* (not printed), decided December 31, 1979.

rate changes proposed through rate bureaus.[7]

The ICC anticipated that the no suspend zone would enhance ratemaking flexibility and rate competition, resulting in lower rates on balance and a greater diversity of rate and service alternatives to the benefit of the shipping and consuming public and the trucking industry. It would also permit trucking companies to quickly adapt their rate levels to meet rising costs or changing market conditions. To establish the no suspend zone, the Commission has proposed to first establish base rates. Individual trucking companies would then have the opportunity to raise or lower their rates by whatever percentage the Commission sets as the perimeters of the zone.

The Motor Carrier Act of 1980 bars the Commission from interfering with a rate proposed by a common carrier of property or a freight forwarder on the basis that it is too high or too low, if the rate does not vary more than 10 percent from the rate charged one year earlier. Certain adjustments in the "10 percent zone" are allowed to reflect inflation or deflation, and the Commission may expand the zone to a maximum of 15 percent. The Commission issued rules requiring motor carriers and freight forwarders to identify rates filed under these rate freedom provisions.[8] The Commission instituted a rulemaking proceeding to evaluate revenue need standards in motor carrier general rate increases.[9]

A proceeding was instituted to interpret and implement provisions of the legislation that impose new standards on rate bureaus as a condition to their continued immunity from the anti-trust laws. Rules under those provisions were stayed pending judicial review, and the proceeding was pending at the end of the fiscal year.[10]

In other major rate regulation actions, the Commission eliminated its requirement that released rate tariffs be subject to prior examination and approval by an ICC employee board (Released Rates Board) on a case-by-case basis;[11] shortened the time for filing evidence in protests and replies to enable faster Commission action in general rate increase proceedings;[12] established rules requiring companies to make notification of unidentified payments to promote more efficient refund and claim procedures;[13] and initiated consolidated proceedings, concerning railroads as well as trucking companies, to consider repealing existing credit regulations for all modes.[14]

[7]Ex Parte No. MC–137, *No-Suspend Zone—Motor Common Carriers of Property.*

[8]No. 37416, *Identification of Rates Filed Under Zone of Rate Freedom by Motor Common Carriers of Property and Freight Forwarders*, (not printed), decided July 15, 1980.

[9]Ex Parte No. MC–128, *Revenue Need Standards in Motor Carrier General Rate Increase Proceedings.*

[10]Ex Parte No. 297 (Sub-No. 5), *Motor Carrier Rate Bureaus—Implementation of P.L. 96–296.*

[11]*Ex Parte No. MC–98 (Sub-No. 2), Released Rates—Small Shipments Tariff*, 362 I.C.C. 614 (1980).

[12]Ex Parte No. MC–82 (Sub-No. 3), *New Procedures in Motor Carrier Revenue Proceedings (Notice Period and Protest Rules for Motor Carrier General Rate Increase Proposals)* (not printed), decided December 14, 1979.

[13]*Overcharge, Dup. Payment or Overcollection of Claims*, 362 I.C.C. 18 (1979).

[14]Ex Parte No. MC–1, *Payment of Rates and Charges of Motor Carriers*, Ex Parte No. 73, *Regulations for Payment of Rates and Charges*, Ex Parte No. 143, *Rules and Regulations Governing the Settlement of Rates and Charges of Common Carriers of Property by Water*, and Ex Parte No. 170, *Rules and Regulations Governing the Settlement of Rates and Charges of Common Carriers of Property by Express*, all pending.

Operating Rights

The Motor Carrier Act of 1980 not only effected the most substantial amendments to the Interstate Commerce Act since 1935, but also achieved the Commission's goals in recent years to promote competitive and efficient transportation services and to reduce unnecessary Federal regulation. The act eases and expedites entry into the trucking business, increases regulation exemptions, and promotes the expansion and efficiency of operating rights by eliminating certain restrictions and limitations from authorities. The Commission instituted a number of proceedings to ensure that the simplified regulatory scheme intended in the Motor Carrier Act is reflected in ICC licensing procedures.

To conform with statutory changes, the Commission increased the amount of exempt transportation services that agricultural cooperatives may perform for nonmembers from 15 to 25 percent of the cooperatives' total traffic.[15]

The scope of the exemption for truck transportation incidental to air transportation was expanded by eliminating mileage limitations.[16] The exemption now applies to traffic that is part of a continuous movement which has been or will be transported by a domestic air line or foreign air line which has reached an appropriate agreement with the United States.

The Commission's policy regarding the holding of both common and contract operating authority was deleted from the regulations. To encourage more productive equipment use, a trucking company which is both a common and contract carrier may transport property under both types of authority in the same vehicle and at the same time.[17]

New rules which increase the duration of temporary authorities were issued to reduce the number of extension requests. Temporary authorities can now be extended up to 270 days, and emergency authorities can be extended 90 days.[18]

The Commission discontinued rulemakings which explored easing entry requirements through the issuance of master certificates in 12 specialized fields of service.[19] The Motor Carrier Act specifically prohibits the Commission from pursuing a master licensing approach.

Interim rules which simplify and expedite procedures for processing operating authority applications were established to meet statutorily imposed time limits.[20] The act requires that Commission decisions be made within 180 days of the filing of an application considered under modified procedure and within 270 days for an orally heard application.

[15]Ex Parte No. MC--75 (Sub-No. 2), *Agricultural Cooperative Exemption*, (not printed), decided June 26, 1980.
[16]No. MC–C–3437 (Sub-No. 12), *Ex-Air Motor Traffic*, (not printed), decided July 1, 1980.
[17]Ex Parte No. MC–55 (Sub-No. 42) *Deletion of 49 CFR 1004.3, Dual Operations Policy* (not printed), decided June 26, 1980.
[18]Ex Parte No. MC–67 (Sub-No. 9), *Revised Temporary Authority Rules*, (not printed), decided June 27, 1980.
[19]Ex Parte No. MC–135, *Master Certificates and Permits*, (not printed), decided June 27, 1980.
[20]Ex Parte No. 55 (Sub-No. 43), *Rules Governing Applications for Operating Authority* (not printed), decided June 27, 1980.

The rules also explain how to apply for permanent authority and how to oppose authority requests under the liberalized entry policy. An applicant which shows that it is fit, willing, and able to provide the proposed services and shows that those services are responsive to a public demand, is entitled to receive authority unless an opposing party shows that the transportation sought is, in fact, inconsistent with the public convenience and necessity. Certain applications may, however, be granted solely on the basis of fitness. Additionally, a single revised application form is now used for trucking, bus, broker, freight forwarder, and water carrier licenses.

The Commission proposed new standards in considering authority requests in terms of broad commodity descriptions and territorial descriptions which encompass areas no smaller than a county.[21]

The Commission also clarified its procedures for processing the thousands of authority applications pending when the Motor Carrier Act was passed.[22] For applications where no procedural order had been issued, evidence would be submitted and considered under the new standards. Where a procedural order had been served, evidence would be filed and examined based on the old standards; however, if it appeared the application would be denied under the old standards, it then would be considered under the new standards.

To encourage the expansion of existing trucking services, the Commission proposed to eliminate gateway restrictions and circuitous route limitations from outstanding permits.[23] Trucking companies that now provide through services will be able to perform those services over any available routes.

The Commission also proposed to allow removal of certain restrictions from operating authorities to enable trucking companies to serve intermediate points on their routes, conduct round-trip operations, and broaden commodity and territorial descriptions. Guidelines were provided indicating the types of restrictions the Commission believes may be eliminated within the special procedures.[24]

Interim rules were issued which exempt intercorporate hauling operations from ICC regulation. Related but separately incorporated members of the same corporate family may now transport each other's traffic without obtaining Commission approval.[25]

Household Goods

Fiscal Year 1980 was a year of reform in household goods transportation regulation. In response to the introduction in Congress of a bill to improve regulation of the household goods industry,[26] the

[21]Ex Parte No. 55 (Sub-No. 43A), *Acceptable Forms of Requests for Operating Authority (Motor Carriers and Brokers of Property)* (not printed), decided June 26, 1980.

[22]*Art Pape Transfer, Inc., Extention—Commodities in End-Dump Vehicles*, 132 M.C.C. 84 (1980).

[23]Ex Parte No. MC–142, *Elimination of Gateway Restrictions and Circuitous Route Limitations*, 132 M.C.C. 174 (1980).

[24]Ex Parte No. MC–142 (Sub-No. 1), *Removal of Restrictions from Authorities of Motor Carriers of Property*, 132 M.C.C. 114 (1980).

[25]Ex Parte No. MC–122 (Sub-No. 1), *Implementation of Intercorporate Hauling Reform Legislation*, (not printed), decided June 26, 1980.

[26]S. 1798. This legislation was passed October 15, 1980, as the Household Goods Transportation Act of 1980, P.L. 96–454.

Commission appointed an internal task force to analyze and prepare to implement new legislation. The task force identified 10 key areas that the bill would affect: standard rate levels, zone of rate reasonableness, entry application procedures, fitness criteria, public convenience and necessity determination, agency procedures, operational rules and regulations, dispute resolution, compliance and enforcement, and anticompetitive practices. In addition, the task force identified 27 separate tasks that the Commission must accomplish to implement the new law.

Legislative activity on the new household goods law prompted the Commission to hold in abeyance its rulemaking proceeding on binding estimates by household goods carriers.[27]

The Commission proposed new regulations covering storage-in-transit (SIT) charges for household goods.[28] Prior to institution of this rulemaking proceeding, household goods companies assessed SIT charges in 30 day increments. For the consumer, this meant that if the goods had to be stored during the move—even if for only one day—the consumer had to pay for 30 days' storage. The Commission's proposed rules favor assessment of SIT charges on a daily basis—one day of storage would mean a one-day charge.

In another important case, the Commission instituted a proposed rulemaking to revise the operational regulations applicable to household goods companies and to adopt new regulations in conformity with the Household Goods Transportation Act.[29] This reform is meant to allow more flexible procedures for weighing household goods shipments, including, for example, weighing the goods at destination. The proposed regulations would also protect consumers by changing the form and content of the pre-move information given to consumers; requiring that Class I and II household goods companies establish and maintain specific procedures for receiving and handling complaints and inquiries from shippers; and changing the procedures and requirements for the collection of transportation charges from shippers.

In February 1980, the Commission affirmed a prior decision limiting to six percent a 9.1-percent rate increase sought by the Household Goods Carriers Bureau on movements of household goods.[30]

During the calendar year, authorized interstate household goods carriers transported 1,189,401 shipments. The Commission received 24,609 consumer complaints about those shipments, an average of 2.1 complaints per 100 shipments. About 43 percent of the complaints were loss and damage claims; 36 percent were delays in service complaints; and 20 percent were charges, estimates, and weight complaints.

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[27]*Practices of Motor Common Carriers of Household Goods*, 131 M.C.C. 586 (1979).

[28]Ex Parte No. MC–19 (Sub-No. 34), *Household Goods Transportation (Storage-In-Transit Charges)*, (not printed), decided July 17, 1980.

[29]Ex Parte No. MC–19 (Sub-No. 36), *Practices of Motor Common Carriers of Household Goods (Revision of Operational Regulations)*, (not printed), decided September 29, 1980.

[30]I&S No. M–29844, *Increased Rates, Household Carriers Bureau, July 1978* (not printed), decided February 12, 1980.

During the first six months of calendar year 1980, the Commission received 10,954 consumer complaints against household goods carriers. The number of shipments was down 15 to 20 percent from the same six-month period in 1979, and the complaint frequency per 100 shipments was between 2.2 and 2.3. The proposed operational regulations are designed to reduce the number of complaints in the future by improving the quality of household goods transportation.

The Independent Trucker

During the past three years, the ICC has assembled reasonably accurate statistical information concerning the role of independent truckers (owner-operators) in truck transportation. The ICC's Office of Policy and Analysis' continuing survey of owner-operators indicated four major concerns of independent truckers:[31]

1. *Cost-Revenue Squeeze*—Operating expenses, such as fuel, parts, repairs, insurance, licenses, and equipment, have risen at a much faster rate than freight revenues received, or any increases in those revenues.

2. *Loading and Unloading*—Owner-operators believe that loading and unloading tasks and charges should be borne by somebody else.

3. *State and Federal Regulations and Laws*—Variations among states in vehicle weight and length laws and in licensing requirements are most frequently criticized, and standardization is favored for ease of interstate travel.

4. *Obtaining Operating Authority*—Many owner-operators mention the possibility of, and express interest in, obtaining their own authority as a solution to their cost-revenue problem.

The Motor Carrier Act of 1980 contains several provisions which address these concerns. Some provisions were effective on July 1, 1980, while others must be implemented by regulation. The statute and our implementation are designed to help owner-operators become stable, financially healthy, and efficient participants in the national transportation system.

The first concern expressed by owner-operators, that revenues and profits are being outstripped by increased operating costs, may be alleviated to some extent by Section 11 of the act. That section bars the Commission from interfering with a rate proposed by a motor common carrier of property or a freight forwarder on the basis that it is too high or too low, if the rate does not vary more than 10 percent from the rate charged one year earlier.[32] (See Rates, page 00.)

The second concern voiced by owner-operators, that of loading and unloading tasks and charges, is squarely addressed by Section 15 of the act. This section provides that any shipper or receiver of property who requires an owner-operator to be assisted in loading or unloading his or her vehicle must provide the assistance or compensate the owner-operator for all costs incurred.[33] Coercion in the loading or unloading of property ("lumping") is specifically made illegal, and civil and criminal penalties are provided.[34] This prohibition applies to all interstate transportation by motor vehicle.

[31] Office of Policy and Analysis, Interstate Commerce Commission: *The Independent Trucker, Follow-Up Survey of Owner-Operators*, Washington, D.C.: Interstate Commerce Commission, November 1979, pp. 112–120.

[32] 49 U.S.C. 10708.
[33] 49 U.S.C. 11109.
[34] 49 U.S.C. 11902(a).

not just transportation subject to Commission regulation. Additionally, the Commission has been directed to implement regulations requiring trucking companies and owner-operators to agree on who has responsibility for the loading or unloading of vehicles, how much compensation should be paid for the service, and by whom.[35] The Commission proposes to issue a rulemaking which will modify its leasing rules to require that leases specify who is responsible for loading and unloading the property transported.[36] The amount of compensation for loading and unloading, if any, would also be specified in the lease.

Section 16 of the act directs the Commission, in cooperation with the Secretary of Agriculture, to require, where appropriate, the use of written contracts for the interstate shipment of property otherwise exempt from Commission regulation such as unprocessed agricultural commodities, livestock, and fish.[37] Under existing practices, some exempt commodities are transported under oral agreement. Owner-operators are unable to document the terms of the agreement should a dispute arise, and in many instances have no choice but to accept whatever payment is offered. Section 16 is Congress' recognition of the abuses that are inherent in this field and its belief that the use of a written contract will help protect exempt truckers from such abuses. The act requires that any contract to haul exempt commodities shall specify the arrangements including compensation, for loading and unloading of the property transported. Civil penalties are prescribed for any shipper or receiver who, without full compensation, requires an owner-operator to load or unload his or her vehicle contrary to the provisions of the contract.[38] To implement the mandates of Section 16, a committee of representatives from the Interstate Commerce Commission and the Department of Agriculture have met regularly since the act's passage to determine where the use of written contracts is appropriate, and to agree on the minimum requirements and conditions in written contracts. The committee's preliminary paper, containing findings and recommendations, will be published in the Federal Register and public hearings will be set for several sites around the Nation.

The Commission, in consultation with the Secretaries of Transportation, Labor, and Agriculture, and representatives of independent owner-operators, the trucking industry, and other interested persons, is directed to study loading and unloading practices in the trucking industry, and to report its findings to the Congress by December 31, 1981.[39]

A majority of owner-operators surveyed by the Office of Policy and Analysis favored standardization of state weight, length, and licensing requirements. Congress found that individual state regulations and requirements on licensing, registration, and filings are in many cases confusing, nonuniform, duplicative, and burdensome.[40] Congress directed the Secretary of Transportation and the Interstate Commerce Commission, in consultation with states and the trucking industry, to develop legislation and

[35] 49 U.S.C. 11107(b).
[36] 49 CFR Part 1057.
[37] 49 U.S.C. 10526(a)(6).
[38] 49 U.S.C. 10527(b).
[39] 49 U.S.C. 11107(e).
[40] P.L. 96-296, Section 19.

recommendations to provide a more efficient and equitable system of state regulations for interstate trucking companies. These recommendations are to be presented to Congress no later than December 31, 1981.

The last major concern of owner-operators involves obtaining their own authority. This is identified by owner-operators as a solution to their cost-revenue squeeze problem, because it would allow them to transport commodities in their own name and to retain the entire gross revenue earned, without apportionment with an authorized trucker to which most independent truckers are leased. Sections 5(a)(3) and 10(a)(2) of the act amend statutory provisions to allow owner-operators to obtain common and contract authority under the special "fitness-only" procedure. They may transport food and other edible products intended for human consumption, agricultural limestone and other soil conditioners, and agriculture fertilizer, as long as the amount of these products transported does not exceed the amount of transported commodities exempt under 49 U.S.C. 10526(a)(6), measured on an annual tonnage basis. The Commission proposed to implement these provisions in a notice of proposed rulemaking.[41] The proposed rules establish an annual reporting requirement and form to monitor compliance; establish simplified rate filing provisions; and dispense with a filing fee for obtaining food transportation authority.

The fitness-only application procedure had been implemented on an interim basis.[42] This simplified procedure requires only that the applicant be fit, willing, and able to provide the proposed transportation and to comply with appropriate statutes and Commission regulations. This is a lesser burden of proof than is imposed for other applicants, and is applicable only to six types of authority, of which owner-operator food transportation is one.

Owner-operators who seek operating authority in nonfitness-related proceedings will benefit from the Commission's implementation of Section 5 of the act. The Commission's interim rules substantially change past motor carrier entry policy by creating a presumption that a proposed service is in the public interest.[43] This presumption, coupled with the option of filing evidence of improved operating efficiency in lieu of traditional shipper support, will assist many owner operators who before were effectively precluded from obtaining their own operating authority. By the close of the fiscal year, 17 owner-operators had filed and received operating authority.

Several commodities previously regulated were exempted by the act.[44] Two types of motor transportation of property were exempted from regulation,[45] and final rules have been adopted by the Commission.[46] Additionally, the act raised

[41]Ex Parte No. MC–143, *Owner-Operator Food Transportation*, 132 M.C.C. 165 (1980).

[42]Ex Parte No. MC–55 (Sub-No. 43), *Rules Governing Applications for Operating Authority* (not printed), decided June 27, 1980.

[43]Id.

[44]P.L. 96–296, 94 Stat. 797, Section 7, 40 U.S.C. 10526(a)(6), (10), (11), and (12).

[45]P.L. 96–296, 94 Stat. 797, Section 7, 49 U.S.C. 10526(a)(8).

[46]No. MC–C–3437 (Sub-No. 12), *Ex-Air Motor Traffic* (not printed), decided July 1, 1980.

from 15 to 25 percent the total annual tonnage of nonmember traffic that an exempt cooperative association (agricultural co-op) may transport. The Commission immediately issued final rules implementing this provision.[47] The combined effect of these measures is to provide new and greater sources of freight for owner-operators, while concurrently increasing their operating efficiency and subsequently their revenues.

Individual assistance to owner-operators in applying for operating authority is provided daily by the Commission's Small Business Assistance Office, Ombudsman's Office, and field offices. The Commission maintains and actively advertises several toll-free WATS lines which owner-operators can use to make inquiries or lodge complaints. Thousands of calls from owner-operators were received and handled during 1980. The Commission's legal assistance referral program may also be available to provide representation to owner-operators who are otherwise unable to bear the expenses involved in Commission proceedings.[48]

On July 3, 1979, an interagency agreement was signed by the ICC, the Department of Transportation, and the Small Business Administration to study the feasibility of conducting a government-funded owner-operator training program. An extensive training program is currently being prepared by the Commission's Office of Consumer Protection. Beginning in March 1981, and continuing for approximately two years, the Commission, in cooperation with DOT and SBA, will hold two-day training sessions in 15 cities every seven weeks. On-site training will include areas of ICC jurisdiction and responsibility, the application process, and ICC leasing regulations. A workshop manual, to be retained by program participants, will include material covered at the session, highlights and analysis of Motor Carrier Act provisions, and state and Federal reference information.

On June 15, 1979, authorized trucking companies who lease the services of owner-operators, who, under the terms of their contracts, are required to bear the burden of fuel costs, were required immediately to pass on to owner-operators a designated percentage of gross revenue compensation in the form of a surcharge. This action was taken as an emergency interim measure to ease the owner-operators' cost-revenue squeeze which led to the June 1979 shutdown by independent truckers. The Commission, in April 1980, instituted a review of the surcharge system in response to complaints from nearly every sector affected.[49] Public hearings were held at six sites around the country in May 1979. Comments were received and are being analyzed in an effort to establish a more effective program, or another viable alternative, without diminishing the health and vigor of the owner-operator industry.

[47]Ex Parte No. MC–75 (Sub-No. 2), *Agricultural Cooperative Exemption* (not printed), decided June 26, 1980.

[48]Ex Parte No. 366, *Legal Assistance Referral Service*, (not printed), decided March 19, 1980; stayed April 28, 1980.

[49]Ex Parte No. 311 (Sub-No. 4), *Review of the Motor Carrier Fuel Surcharge Program* (not printed), notice of proposed rulemaking decided April 9, 1980.

BUS COMPANIES

Regulatory reform of the bus industry has a high Commission priority. At the request of Senator Cannon, the Commission developed a proposal for legislation to improve competition and increase price-service options for consumers by relaxing regulation of entry, exit, and pricing.

Prior to this specific request, the Commission was active in bus matters, holding Open Conferences in October 1979 and March 1980 to review staff proposals for regulatory reform. These conferences resulted in Commission guidance regarding the direction and nature of further analysis and proposals. The need for maximum input from all interested parties was emphasized. The crucial importance of Federal-State coordination to the successful development and implementation of regulatory reform measures was particularly stressed. This led to a Federal-State Conference in September 1980 sponsored jointly by the Commission and the Transportation Research Board. More than 200 persons representing industry, government, and consumers expressed their views on regulatory reform. Federal legislation is expected to be considered by the Congress during 1981.

Overall industry financial performance during Fiscal Year 1980, continued to reflect improvements begun during the second calendar quarter of 1979. At that time rising fuel prices and fuel shortages caused an increase in the number of bus travelers sufficient to reverse the trend of the 1970s toward annual declines in regular-route ridership. The downward trend was previously broken only during 1973 when similar fuel problems occurred. The higher ridership level achieved in calendar year 1979 has been retained and improved upon during 1980—unlike 1975 when the downward trend in bus travel resumed as fuel again became readily available. This apparent stability of recently improved ridership, viewed in the context of a decline in automobile travel, portrays optimism for the bus industry.

The improved financial performance enjoyed by the industry was the result of increased ridership and higher fares approved by the Commission to help offset the impacts of inflation. Preliminary data of the American Bus Association indicates that during calendar year 1979 operating revenues increased by 17.2 percent for all carriers and services. Class I revenues increased by approximately 16.4 percent—including increases of 18.7 percent for regular-route and 14.7 percent for charter and special service, while package express revenues rose by 10.7 percent. The operating ratio improved for the industry from 96.1 to 94.6 and for Class I carriers from 96.3 to 95.2.

The industry forecasts that the total number of revenue passengers transported during calendar year 1980 will increase approximately 4 to 7 percent over 1979. The actual increase for the first 10 months of 1980 is estimated by the industry to be 5 percent over the same 1979 period.

ICC data for the 10 largest carriers show that for the 12 months ending June 30, 1980, the number of revenue passengers increased by more than 7 percent, as compared to a year earlier.

Operating Rights and Service

The Commission has changed the way in which it interprets grants of specific charter authority.[1] Past Commission decisions had found that, where specific charter authority was framed in terms of operations "beginning and ending at" a defined base territory "and extending to" a defined destination territory, the proper interpretation was that only round-trip service was authorized; that no service was authorized at points in the destination territory; and that the authority could not be tacked with any other authority to serve points in that destination territory. In a case involving a certificate which contained no limitation referring to either one-way or round-trip operations and which raised the issue whether this authority could be tacked or joined with incidental charter rights at a qualifying regular-route service point, the Commission adopted the interpretation that the unlimited language of the grant permits both one-way and round-trip operations and, thus, allows the described tacking service.

The Commission granted authority to Greyhound Lines, Inc., to provide irregular-route bus service to and from Atlantic City, NJ.[2] The existing scheduled, regular-route service was being provided by Trailways, Inc., and by two regional carriers which published a joint timetable and provided coordinated service. The Commission concluded that the beginning of casino gambling in Atlantic City would create a demand for additional bus service which Greyhound would be able to satisfy. It found several deficiencies in the existing services which the new service could be expected to correct, and it concluded that the potential for greatly increased bus traffic moving to and from Atlantic City would allow the existing companies to overcome any adverse effects of competition by Greyhound. The two regional companies receive operating subsidies through the State of New Jersey, but the Commission rejected the idea that the public interest requires that such subsidized operators be insulated from competition. The Commission pointed out that this market was particularly well-suited for bus service and concluded that it could well sustain competition among several companies.

The Commission also reaffirmed its prior decisions that the transportation of passengers, within a single state, prior or subsequent to an interstate movement by air, is intrastate commerce when there is no through ticketing or other common arrangement between the bus company and the airline involved.[3] The issue had been referred to the Commission by a Federal court in Florida, in response to a dispute between a Florida company and the Florida Public Service Commission. The fact that both the single-state motor transportation and the interstate

[1] *Mandrell Motor Coach, Inc., Ext.—Charter Operations*, 132 M.C.C. 101 (1980).
[2] No. MC–1515 (Sub-No. 222), *Greyhound Lines, Inc., Extension—Special Operations, Atlantic City* (not printed), decided July 22, 1980.
[3] *Kimball—Petition for Declaratory Order*, 131 M.C.C. 908 (1980).

air transportation were arranged by a travel agent as part of a tour package did not constitute the type of common arrangement which would make the service subject to interstate regulatory jurisdiction. To be an interstate operation, the common arrangement must be between the two companies—not one in which a third party makes separate arrangements with both companies and assembles a package including both services.

Two of the largest commuter bus companies operating between New Jersey and New York were ordered to cease and desist from violating the Commission's regulations to provide safe and adequate service and equipment.[4] They were also ordered to develop programs to correct the failure to provide heat or air-conditioning; bus breakdowns en route; failure to meet schedule times; broken seats and windows; and dirty buses. The bus companies have filed petitions for administrative review which stayed the orders until a review has been made.

A nationwide survey of intercity bus service for a sample of small communities was conducted during the past year. Less than half of the communities with populations under 15,000 receive bus service. Of those communities, nearly two-thirds indicate they are satisfied with the level of service provided by intercity bus companies. Those communities not satisfied with their bus service cite insufficient service, poor bus scheduling, and unreliable flag stop service as primary reasons for their discontent.

Since 1970, almost 17 percent of the communities receiving bus service lost service entirely. Almost one-third of the communities report reductions in service levels, but the majority of communities maintained the same level of service during the past ten years. A number of the larger communities report an increase in their service.

Of the communities receiving intercity passenger services, nearly two-thirds also receive package express service by bus. Over 90 percent of these communities indicate satisfaction with service levels on package express.

Rates

The Commission is considering allowing bus companies to raise and lower fares within a fixed zone and to negotiate charter charges, in order to recover increasing costs.[5] In response to a petition from the bus industry, the Commission stayed its requirement that bus companies must provide excess value coverage on passengers' checked baggage at least up to $2,000.[6] The petition charged that $2,000 was excessive and could not be supported by evidence of record. Additional evidence on an appropriate liability level is being gathered. Meanwhile, the bus industry's $250 maximum baggage liability limit remains in effect.

[4]No. 37095, *Arthur Goldsweig, et. al. v. Transport of New Jersey, et. al.* (not printed), decided July 24, 1980.

[5]Ex Parte No. MC-125, *Fare Flexibility for the Bus Industry* (not printed), notice of proposed rulemaking decided June 25, 1979.

[6]Ex Parte No. MC-95 (Sub-No. 2), *Practices of Motor Common Carriers of Passengers—Checked Baggage Liability Provisions*, notice published in Federal Register March 14, 1980, reopening prior decision 130 M.C.C. 772 (1979).

The Commission ordered the regular-route bus companies to provide excess value insurance coverage for package express shipments valued at over $250.[7] A petition by the bus industry to provide coverage for packages valued up to $1,000 was approved.[8] Shippers of package express by bus can now be assured that packages valued over $250 but not exceeding $1,000 will be fully covered in case of loss or damage to the package.

[7]No. 36490, *Released Value Limitation on Express Service—National Bus Traffic Association, Inc.* (not printed), decided November 26, 1979.

[8]*Amendment to Released Rates Decision No. MC-976* (not printed), decided May 12, 1980.

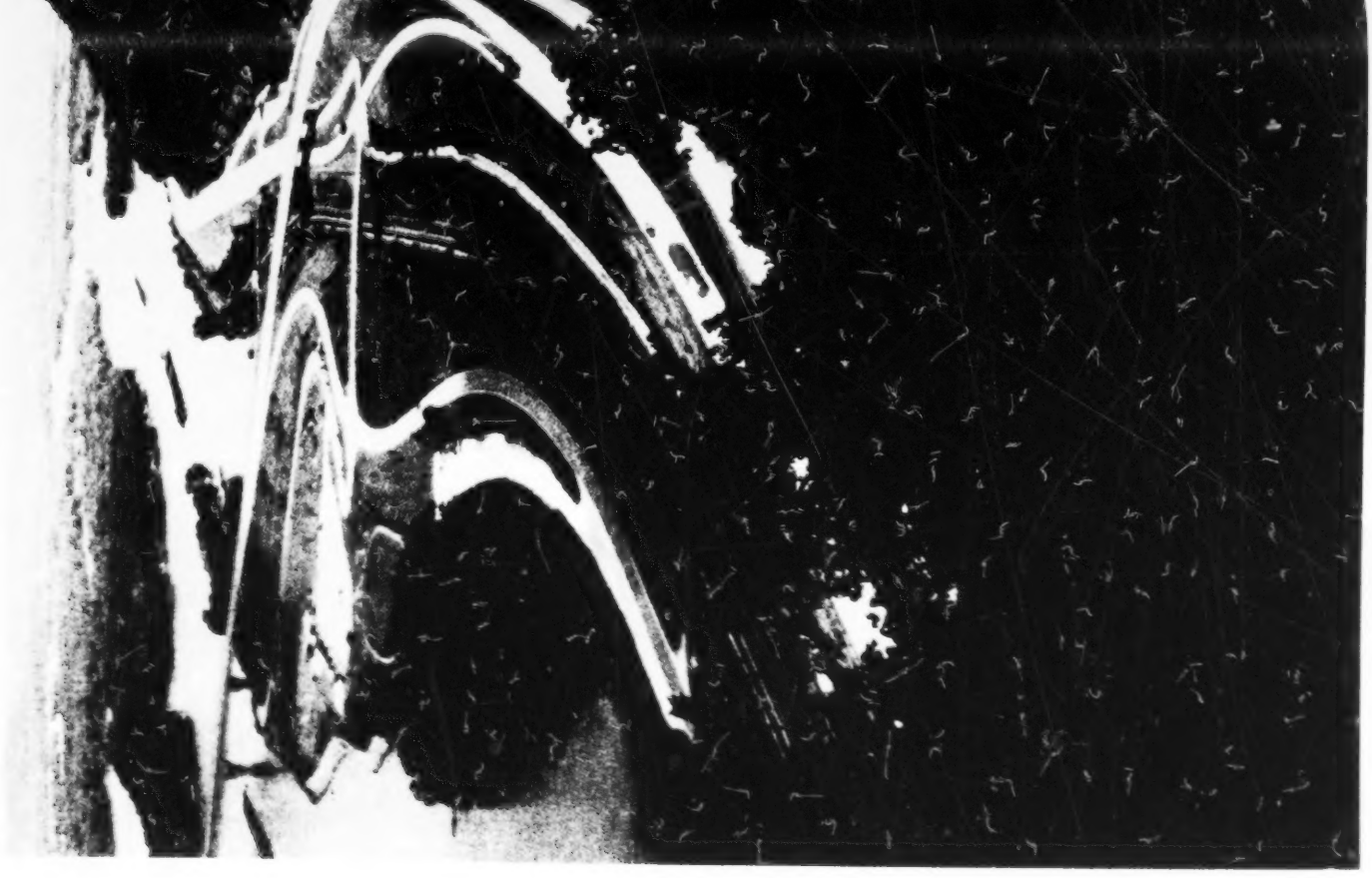
FREIGHT FORWARDERS

The Commission is now considering whether independently operated affiliates of regulated freight forwarders can engage in forwarding service exempt from economic regulation[1] as shipper agents consolidating or distributing pool cars when the service is provided and performed only within a terminal area.[2]

Several statutory changes will make it easier for freight forwarders to move their traffic either solely by one transportation mode or in intermodal service. Since much freight forwarder traffic moves by rail, a new statutory provision which allows freight forwarders to enter into contracts with railroads and water common carriers is particularly important.[3] The Commission has instituted a rulemaking to implement this statutory change.[4] Another statutory addition allows freight forwarders to use the services of motor contract carriers in addition to the motor common carrier service they previously could use.[5]

The limit on the amount of non-member traffic which agricultural cooperatives can transport has been raised, and freight forwarders will be able to make greater use of such services in the future.[6] Finally, liberalized entry into small package transportation should provide additional carriers for freight forwarders that route many shipments weighing 100 pounds or less.[7]

[1]49 U.S.C. 10562(4).
[2]FF–C–75, *Status of Forwarder-Affiliated Consolidators* and Ex Parte No. 380, *Status of Rail Carrier Affiliated Shippers Agents*.
[3]49 U.S.C. 10703(a)(4)(E).
[4]Ex Parte No. 364 (Sub. No. 1), *Freight Forwarder Contract Rates—Implementation of P.L. 96–296* (not printed), notice of proposed rulemaking decided July 31, 1980.
[5]49 U.S.C. 10766(b).
[6]49 U.S.C. 10525(a) (5) (ii).
[7]49 U.S.C. 10922(b) (4) (D).



WATER CARRIERS

Regulation of the water carrier industry did not receive the intense review accorded the rail, trucking, and household goods industries during the fiscal year. The percentage of total water carrier traffic subject to Commission regulation remained relatively small—approximately seven percent of all water carrier traffic. The most important movements continue to be bulk shipments of grain, coal, chemicals, petroleum, and petroleum products which are exempt from regulation.

The Commission has pending a decision which will examine the applicability of Section 10 of the Clayton Antitrust Act to transactions between water common carriers and their affiliated companies with 100 percent common ownership.[1] The resolution of this issue may have far-reaching effects on the corporate structure adopted by regulated carriers, rail and motor as well as water, especially for ownership of equipment. The proceeding arose through a complaint filed by the State of Alaska.

Also pending is a major transfer of water common carrier authority affecting routes along the United States Pacific Coast.[2] The proposed transfer of the operating authority is part of a transaction involving the transfer of freight and passenger services and vessels.

The Commission has been especially concerned with expediting processing of water carrier applications. For this reason, a single application form has been issued in place of the several application forms previously used.[3] Issuance of the new Form OP–1 is part of the process of regulatory reform mandated by the Motor Carrier Act of 1980.

The Commission is committed to the expeditious processing of the several important applications pending before it at the end of the fiscal year, including an application for authority to operate as a water contract carrier, using non-self-propelled vessels and towing vessels, transporting refractories from Newell, WV, to ports along the Illinois Waterway, the Mississippi and Ohio Rivers, and the Gulf Intra-Coastal Waterway.[4] Another pending application involves a request for authority to operate as a water common carrier, using non-self-propelled vessels and separate towing vessels, transporting general commodities between all ports on the Great Lakes and all connecting tributary waterways, except the Illinois Waterway.

The Commission, in a recent decision, pointed out that not all water operations are within its statutory jurisdiction.[5] For example, the daily transportation of passengers, without vehicles, by a water common carrier using a self-propelled vessel between Montauk, NY, and Block Island, RI, a distance of approximately 22 miles, was found to be transportation "by a ferry" and exempt from ICC jurisdiction.

At the close of the fiscal year, the Commission was working on proposed regulations governing motor and water carrier temporary and emergency temporary authority, including recommendations to establish formal regulations covering emergency temporary authority for water carriers.

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[1] Docket No. WCC-31, *State of Alaska v. Foss Launch and Tug, et al.*

[2] Finance Docket No. 29464, *Prudential Lines, Inc.—Transferee and Delta Steamship Lines, Inc.—Transferee.*

[3] Ex Parte No. 55 (Sub-No. 43), *Rules Governing Applications for Operating Authority* (not printed), decided June 27, 1980.

[4] No. W-409 (Sub-No. 15)E, *Ohio Barge Line, Inc.*

[5] No. W-547 (Sub-No. 4), *The Great Lakes Towing Company.*

[6] No. W-132, *North Rip Fish Harvest, Ltd.* (not printed), decided May 14, 1980.

[7] Ex Parte No. MC-82 (Sub-No. 8), *Rules Governing Temporary Authority and Emergency Temporary Authority.*

INTERMODAL TRANSPORTATION

The Commission has continued to adhere to its policy of promoting coordination among transportation modes and fostering the growth of efficient and economic intermodal services.[1]

The Motor Carrier Act of 1980 expressly includes the promotion of intermodal cooperation as an element of the National Transportation Policy, and makes some far-reaching substantive changes in this area.[2] The transportation by motor vehicle of property as part of a continuous movement involving air carriage is now largely exempt from regulation.[3] Under the former law, the exemption was limited to a collection, delivery, or transfer service performed within the air carrier's terminal area, except for certain emergency substitute motor-for-air-transportation. The latter has also been incorporated into the 1980 Act.[4]

In the maritime area, transportation of empty intermodal cargo containers is exempt under the new Act.[5] Earlier in 1980, the Commission reached the same conclusion in a decision reversing its former findings that the containers were commodities rather than "instrumentalities of transportation."[6]

New provisions also enable the Commission to prescribe joint rates and through routes between motor and water common carriers,[7] and require all participants in joint rates and through routes promptly to pay divisions or to make settlements with each other.[8] Freight forwarders are now permitted to enter into contracts with rail and water common carriers,[9] and, in their contracts with motor common carriers, are no longer required to pay the applicable tariff rates for line-haul transportation under 450 miles.[10] These provisions generally eliminate the disadvantages suffered by freight forwarders in obtaining economical negotiated transportation brought about by their dual nature as carriers with respect to the public, and as shippers with respect to the underlying transportation.

Finally, the Motor Carrier Act permits motor carriers participating in trailer-on-flatcar (piggyback) movements to exchange freight with rail carriers at any point on the rail line provided the motor carriers holds authority to serve the origin and destinations.[11]

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[1] *Emery Air Freight Corp. Freight Forwarder Applic.*, 339 I.C.C. 17, 27–37 (1971), *IML Freight, Inc., Ext.—Containerized Freight*, 118 M.C.C. 21, 32 (1973), and *Holt Motor Express, Inc., Ext. Baltimore–MD*, 120 M.C.C. 323, 329–330 (1974).
[2] 49 U.S.C. 10101(a)(7)(H).
[3] 49 U.S.C. 10526(a)(8)(a).
[4] 49 U.S.C. 10526(a)(8)(b).
[5] 49 U.S.C. 10526(a)(10).
[6] *Petition for Declaratory Order—Empty Containers*, 123 M.C.C. 30 (1980).
[7] 49 U.S.C. 10705(b)(1).
[8] 49 U.S.C. 10705(h).
[9] 49 U.S.C. 10703(a)(4)(E).
[10] 49 U.S.C. 10766(b).
[11] 49 U.S.C. 10922(j) and 49 U.S.C. 10923(e).

TARIFFS

Filing and Publication of Tariffs

Tariff filings in 1980 increased slightly over 1979, reflecting the number of new trucking operating authorities granted by the Commission and the inflationary forces affecting all transportation companies' costs. Each new grant of authority requires a tariff filing and tariffs were frequently amended to recover increased operating costs through higher rates. During the slump in the economy, many companies initiated reduced rates to attract business to their service. Each reduction results in a tariff filing.

With personnel resources further reduced in 1980, the volume of tariff matter received caused the tariff library maintenance function to overwhelm the examination process. The tariff examination program was designed to protect the interests of the shipping public by ensuring that tariffs filed by regulated transportation companies comply with Commission regulations. To continue this protection and at the same time maintain the tariff file in the current condition, it was clear that changes were needed.

The statistical sampling technique developed last year to examine, in depth, at random, a small percentage of all tariffs filed, failed to serve its intended purpose and was discontinued. Likewise, the consumer-oriented examination was discontinued as the benefits did not justify the cost. The personnel resources committed to those two programs will be used in a reorganization that will provide a tariff review and file unit to conduct a brief examination of every tariff verifying that a few of the most important regulations are observed. A smaller "strike force" unit will perform an in depth analysis of tariffs that impact on the largest number of users.

The Tariff Integrity Board[1] established last year will continue to process complaints of tariff users against tariffs considered to be unlawfully established and which were not detected under the foregoing process. These procedures will provide the most efficient tariff examination that available resources permit.

Several additional actions to reduce the workload were implemented during the year. Since 1937, motor contract carriers have been required to file copies of their shipper/carrier contracts along with copies of schedules of rates and charges.[2] The circumstances dictating the need to file the contracts are not relevant today. Therefore, tariff publishing rules were amended to eliminate the requirement for motor contract carriers to file a copy of each bilateral contract.[3] Also rescinded were regulations requiring companies to certify that rates covering new grants of operating authority were filed.[4]

Other measures taken to relieve the industry and the Commission of paperwork included a number of outstanding special permissions. Tariff publishing rules require that tariffs and schedules issued under temporary operating authority (TA) must show an explicit expiration date, corresponding with the end of the TA

[1]Ex Parte No. 367, *Tariff Integrity Board*, 49 CFR 1100.22A, 1100.225, 1011.6, served October 5, 1979.

[2]Ex Parte No. MC–9, *Filing of Contracts by Carriers* (not printed), decided June 8, 1937.

[3]Ex Parte No. MC–9 (Sub. No. 1), *Filing of Contracts by Contract Carriers by Motor Vehicle*, served September 3, 1980.

[4]Docket No. 37013 (Sub-No. 1), *Rescission of Regulations Governing Certification of Rates or Fares Covering New Operating Authority*, served September 22, 1980.

period. As a general practice, most TA's are extended indefinitely pending the outcome of applications for permanent authority. Instead of an explicit expiration date, which requires filing amendments to tariffs when the TA is extended, an expiration date statement permitting automatic cancellation of the TA tariff was permitted.[5] This eliminates the need to compile, print, file, and process hundreds of tariff amendments annually.

Several proposals to establish and maintain rates using a percentage formula were approved for publication.[6] This was before the Commission approved new rules permitting changes in establishing rates to be expressed by percentages.[7] Putting the proposals into effect results in time and money savings. Fewer tariff pages are needed to reflect changes in the rate level.

The simplified tariff rules for publishing railroad contract rates issued last year have encouraged the railroads to file many innovative and novel tariff provisions.[8] Services designed to meet the special needs of particular shippers were common. The Denver and Rio Grande Western Railway Company (DRGW) issued a contract tariff calling for a guaranteed delivery schedule to coincide with Ford Motor Company's production schedule. DRGW will pay Ford a late arrival penalty for failure to meet agreed upon arrival times. Other railroads issued contract rate tariffs providing penalty payments to shippers for failure to meet schedules.

Many shippers were willing to pay an additional charge for an ensured car supply. The Western Pacific Railroad company, for example, filed a contract tariff to provide a monthly assignment of 25 cars to Sierra Pacific Industries at $150 per car which is in addition to regular transportation rates.

In addition to the innovative contract rates tariffs, railroads introduced numerous new ratemaking ideas. The Illinois Central Gulf Railroad published a tariff which provides a flexible scale of rates which allows for increases or reductions of charges on short notice within a reasonable zone. It permits the railroad to respond to competitive rate changes for export coal by unregulated barge companies.

To assist shippers of grain products whose shipping elevators are located on portions of the defunct Chicago, Rock Island and Pacific Railroad Company (Rock Island) for which no substitute rail service was available, several railroads published tariffs which afforded cash allowances to those shippers who would truck grain into the publishing railroad's nearest facility. These tariffs provided a temporary means, during the peak harvest season, for grain from those former Rock Island stations to be transported at the same through charges previously applied by the Rock Island.

To encourage more efficient use of equipment by reducing empty backhauls, some eastern railroads published lower rates for receivers of loaded inbound cars who could reload the same cars in the reverse direction.

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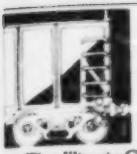
[5]Amendment No. 1 to Special Tariff Authority No. 78–1000–TA, Establishment of Rates, Fares, or Charges on Short Notice to Cover Shipments and Passengers Transported Under Temporary Authority, decided March 17, 1980.

[6]Special Tariff Authority Nos. 80–1119–M, 80–1120–M, 80–1121–M, 80–1123–M, establish new commodity rate items on named commodities, with rates determined by appropriate class ratings, decided January 31, 1980.

[7]Ex Parte No. 370, *Tariff Improvement*, served September 8, 1980.

[8]Special Permission No. 79–3700, Railroad Contract Rates, decided October 9, 1979.



The Illinois Central Gulf Railroad (ICG) issued an allowance tariff which will pay Union Camp Corporation (UCC) $50 per car for each car routed over ICG from UCC's new plant near Montgomery, AL. UCC agreed to advance the railroad $5,000,000 for the rehabilitation of the ICG's line between Montgomery and Tuscaloosa.

The foregoing are a few examples of railroad efforts to improve service, meet competition, and develop new sources of revenue.

Trucking and bus companies also were responding to changing economic conditions and competition. The National Bus Traffic Association effected a new one-way fare of $97.15 to apply from Middle Atlantic metropolitan areas to California, with a return-trip fare of $1.

Greyhound Lines, Inc., introduced a round-trip excursion fare for 30 days' unlimited travel between all points in the continental United States (except Alaska) at $99, limited to residents of Canada. Greyhound justified this action on their desire to thank the Canadian people for the aid given in the escape of six American diplomats from Iran. A later proposal extended the fare to citizens of Mexico.

A new charter passenger service tariff was issued by Atwood's Transport Lines, Inc., naming increased rates to apply when travel is conducted in customized buses containing such luxuries as a bar, galley, stereo cassette system, and sofa lounge chairs. The company expects to conduct daily service to Atlantic City, NJ, from several metropolitan areas.

A special reduced fare was published to apply from Miami, FL, to Elizabeth and Union City, NJ. The low rate was established to assist relocation of Cuban refugees, many of whom have relatives living in the destination area.

Many trucking companies, feeling the loss of traffic due to economic conditions in the industry generally, initiated tariff provisions designed to make service more attractive to shippers. An idea that became popular with carriers handling less-than-truckload (LTL) shipments was multiple pickup allowances. Reduced rates, or discounts, are allowed to shippers who provide multiple LTL shipments at one time. The cost saving is thus passed onto the shipper.

Many rate reductions were effected on truckload traffic of highly competitive commodities such as steel and automobile parts. Reduced production of these articles severely impacted the trucking industry. The lowered rates were an attempt to attract traffic. Additionally, although the companies were authorized to recoup increased fuel costs by use of approved percentage surcharges, many have chosen to accept a smaller surcharge for competitive reasons.[9]

The eruption of Mt. St. Helens caused blocked highways and destruction of bridges. Trucking companies operating in that area were forced to travel new routes. An emergency tariff rule was executed assessing additional charges when the company is forced to travel in excess of the normal distance from origin to destination. The transportation companies could not absorb the added cost of traversing the deviation routes.

Household goods moving companies published tariffs setting seasonal rate adjustments. Rates on shipments moving

[9]Ex Parte No. 311, *Expedited Procedures for the Recovery of Fuel Costs* (not printed), decided June 19, 1979.

during the heavy shipping season (June through September) were increased 10 percent. It is expected that lower charges during the slow periods may induce shippers to schedule moves when an excess of equipment is available. This would effect a more balanced year-round use of vehicles. Also introduced by household goods movers were guaranteed pickup and delivery rules. If the company fails to meet the agreed upon date, an allowance of $100 per day will be paid to the owner of the goods.

Informal Rate Cases

The Bureau of Traffic, using informal procedures, handled 5,093 cases concerning rate and tariff applications. This process provides an expert forum where tariff-related disputes between shippers and transportation companies can be resolved informally and inexpensively. This process does not require formal action of any kind, thereby promoting harmony and cooperation between the parties, especially small consumers and truckers. It also gives the consumer, traveler, and small shipper an understanding of their rights, obligations and remedies in connection with rates, fares, charges and services of freight and passenger companies. Although the Informal Rate Case Branch does not always know the exact dollar amounts involved in the disputes it considers, it did receive confirmation in 366 of the cases it handled that repayments of $335,395.32 were made to the consumers who asked its help.

The Commission's special docket procedure permits rail and water companies to seek authority to refund or waive collection of admittedly unreasonable charges. A total of 518 special docket orders were served, authorizing total reparation or waiver of $7,325,937.44. The largest single adjustment was a waiver of $2,009,560.65 on a number of automobile shipments, due to a difference in the type of rail cars used. The largest single refund amounted to $259,967.92, involving 56 unit-train shipments of coal.

Through the informal complaint docket, rail or water shippers may toll the running of the statutes of limitations for overcharges or unreasonable charges by writing to the Commission and describing their complaint. If the transportation company agrees that a particular shipment was overcharged or that the charges are unreasonable, adjustments can be made without using time-consuming and costly formal procedures. The Commission processed 225 applications on the informal complaint docket during the fiscal year.

Regulated transportation companies are fully liable for any loss, damage or injury to property transported. However, they may publish lower released rates based on limited liability with prior approval of the Commission. During Fiscal Year 1980, the Commission's Released Rates Board acted upon 49 such applications.[10]

[10]With the passage of the Motor Carrier Act of 1980, P.L. 96-296, effective July 1, 1980, and the Staggers Rail Act of 1980, P.L. 96-448, effective October 1, 1980, motor common carriers and railroads do not require authority from the Commission to publish lower released rates.

Tariff Reform

To encourage flexibility and innovation in the industries' pricing practices, the Commission has focused on modifications to its tariff publishing requirements.

In one major proceeding,[11] the Commission relaxed its regulations in order to permit rates and charges to be named as a percentage of other stated rates and charges. Not only will this greatly facilitate pricing flexibility and innovation, but will also serve to substantially reduce the cost of tariffs both to the industry and its users. Additionally, the "percentage" method of rate publication will significantly enhance the use of computer technology between carriers and the balance of the transportation community.

Another feature of that proceeding also serves computer technology; the Commission has adopted standard tariff codes for commodity and place identification. Standardization of these codes will foster computerization of tariff data.

In another rulemaking proceeding,[12] the Commission seeks to eliminate the current requirement that railroads seek early approval of rates which would contravene the long-and-short-haul and aggregate-of-intermediate provisions of the act. Today, rails are required to submit a detailed application in addition to the actual filing of such rates. The initial rulemaking called for exemption of only certain categories of rail rates. However, in light of the broader exemption authority under the Staggers Rail Act, the proceeding is being reopened, inviting additional comments from interested parties, to broaden the scope to exempt all categories of rail rates. Under the reopened proceeding, railroads would no longer bear the added burden of gaining approval by early application. Rather, they would be encouraged to establish market-commanded rates without undue concern that such rates would cause revenue loss at intermediate points. At the same time, concerned shippers at intermediate points would still retain the right of complaint against rates believed to be unlawful.

Suspension Board

New, increased, or reduced rates and charges for the interstate service provided by the Nation's transportation industries are filed with the Commission in tariff form, generally on not less than 30 days' notice to the Commission and the public.[13] Upon request by interested parties opposing the proposed tariff changes, the proposals are considered for possible investigation and suspension by the Commission's Suspension Board or by the entire Commission. Decisions of the Board are subject to reconsideration by a division of the Commission.

During the fiscal year, a total of 680 rate proposals filed with the Commission were protested. Of these proposals, 193 were suspended, 332 were permitted to become effective, 38 were allowed to go into effect but were investigated, and 117 were either cancelled by the company, the protests were withdrawn, or the tariff was rejected by the Commission.

[11]Ex Parte No. 370, *Tariff Improvement*, 364 I.C.C. 217 (1980).
[12]Ex Parte No. 346 (Sub-No. 3), *Rail General Exemption Authority—Long and Short Haul Transportation*, pending.

[13]The Staggers Rail Act of 1980 amended 49 U.S.C. 10762(c)(3) to permit railroads to file new or increased rates on not less than 20 days' notice, and rate reductions on not less than 10 days' notice.

There were 40 unprotested rate proposals referred to the Board by the Consumer Unit of the Tariff Examining Branch or considered by the Board on its own initiative. The Board suspended 12 of the proposals, 23 were permitted to become effective, and five were not handled because the tariff was canceled or rejected.

Also considered were approximately 40 general increases in trucking rates and charges filed by the regional motor bureaus, and in addition, approximately 10 general increases filed by the household goods carriers, United Parcel Service, and the National Bus Traffic Association.

The Board also considered 108 applications filed by companies to depart from rules which prohibit rail and water companies from charging more for transportation for a shorter distance than for a longer distance, over the same route and under the same transportation conditions.

ENFORCEMENT

The Commission's ability to secure repayment to shippers injured by carrier violations was recognized by the U.S. Court of Appeals, First Circuit, during 1980. This significant case involved a suit by the Commission to enjoin a regulated trucking company and a freight consolidator from collecting charges not reflected in the company's published tariffs and a request for equitable relief in the form of restitution of previous overcharges. In granting summary judgment for the defendants, the lower court ruled, in part, that the Commission lacked authority to seek repayment for the benefit of injured shippers. The Court of Appeals reversed the lower court's decision stating that the Commission's authority under former Section 322(b)(1) of the Act, now 49 U.S.C. 11702, to obtain a district court "injunction or other process" to enforce obedience to provisions of the Act embraces the traditional power of the court to order restitution.

Another significant court action involved the ICC's power to determine its own jurisdiction by summary procedures.[1] The court held that the Commission's jurisdiction to "inspect and copy any record of a ... broker" extends to the transportation related records and documents of a non licensed broker who claims to be exempt from ICC regulation.[2] The Third Circuit remarked that a court order to compel inspection is appropriate where the Commission has reason to believe the activities of the broker arguably fall within the ICC's jurisdiction.

Consumer Protection

Efforts by the Commission to secure the return of "duplicate payments" made to transportation companies by shippers continued through 1980. Such cases involve payments received by companies which they cannot allocate or attribute to specific freight bills. Three western based truckers, J. B. Montgomery, Inc., and Scott Truck Lines, Inc., of Denver, CO, and Dunkley Refrigerated Transport, Inc., of Salt Lake City, UT, were ordered to audit their books and to make refunds to their shippers in connection with their receipt of duplicate payments.

In Opelika, AL, Kenneth J. Bragg, Anthony W. Bethea, and three other individuals were tried on charges involving primarily military shipments of household goods. The charges were brought under the Rico and mail fraud statutes.[3] Overt acts of the defendants in defrauding the government involved inflating the weights of household goods shipments, charging for accessorial services not performed, charging for materials not used, charging for storage not requested and for storage not performed, and preparing and mailing false documents. On August 13, 1980, defendant Bragg was sentenced to six years in prison, fined $50,000, and his trucking firm, Belcher Moving and Storage of Phenix City, AL, was confiscated by the Federal government. Defendant Bethea, the former chief of the household goods section at the Fort Benning army base, was ordered to serve four months of a three year sentence.

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[1] Interstate Commerce Comm'n v. [illegible]
613 F.2d 1182 (1st Cir. 1980).

[2] ICC v. Gould, 443 Brokers for Agricultural Cooperative Associations, 629 F.2d 847 (3d Cir. 1980), 49 U.S.C. 11144(b).

[3] [illegible]

During 1980, the Federal District Court in Chicago entered injunctions against two major household goods carriers, Aero-Mayflower Transit, Inc., and National Van Lines.[5] Both decrees involved failure to provide adequate and nondiscriminatory service. Both companies must monitor bookings to insure sufficiency of equipment to meet shipper demands.

In an administrative action, American Van and Storage, Inc., required to cease and desist from failing to comply with the Commission's household goods regulations in some five different categories. The provisions involved the failure to obtain correct weights on household goods shipments and the failure to pickup and deliver shipments on agreed dates. In its offer of settlement, the company agreed for a period of six months to modify its tariff to give every shipper a reweigh without charge upon request.

The Commission concurred with an earlier administrative law judge's decision directing Akers Motor Lines, Inc., and other respondents to provide adequate, nondiscriminatory service under their certificates.[6] The respondents were ordered to cease and desist from discriminating against the transportation of any type or quantity of traffic authorized by their certificates. The respondents were also directed, within 90 days, to institute and to maintain reasonably continuous and adequate service to the public or to initiate appropriate proceedings to convert their regular-route certificates to irregular-route authorities.

In 1980 the ICC pursued remedial actions before Federal reorganization courts in an effort to protect consumer rights. In the case of Burgmeyer Bros., Inc., currently undergoing Chapter 11 reorganization, the Commission secured an order from the bankruptcy court requiring Burgmeyer to notify its loss-and-damage claimants of their rights under Burgmeyer's cargo insurance policies.[7]

In other consumer-related litigation, the ICC and the Department of Justice jointly filed an injunctive action against Auto-Train Corporation in the U.S. District Court for the District of Columbia to secure compliance with the ICC's earlier order requiring Auto-Train to deposit $500,000 in a special escrow account to be used in repaying individuals sums owed for canceled, prepaid trips.[8] Within a month of the filing of the injunctive action, Auto-Train filed for reorganization under Section 11 of the Bankruptcy Code. This filing stayed the ICC's injunctive action. The matter is now before the bankruptcy court.

Owner-Operator Abuses

Regarding "lumper practices," which impact principally on owner-operators, the Commission obtained injunctions against two Denver-based trucking companies. Enjoined were J. B. Montgomery, Inc., and Refrigerated Foods, Inc.[9] The

[5] *I.C.C. v. Aero-Mayflower Transit, Inc.*, Civil No. 18C–2666 (N.D. Ill.); *I.C.C. v. National Van Lines*, Civil No. 78C–2943 (N.D. Ill.).

[6] *Akers Motor Lines, Inc., et al., Investigation and Revocation of Certificates*, No. MC–C–10167.

[7] *I.C.C. v. Burgmeyer Bros. Inc., et al.*, Civil No. 79–195 (E.D. Pa., filed November 9, 1979).

[8] *United States and I.C.C. v. Auto-Train Corporation*, Civil No. 80–2124 (D.C., filed August 19, 1980).

[9] *I.C.C. v. J. B. Montgomery, Inc.*, Civil No. 79–637 (U.S.D.C. Col., filed May 31, 1979); *I.C.C. v. Refrigerated Foods, Inc.*, Civil No. 79K–885 (U.S.D.C. Col., filed July 9, 1979).

legal basis for each suit was the fact that an allowance or payment for "lumper services" was not provided for under the published tariffs. Each company was required to notify its shippers that "lumper services" would not be paid for in the future by the company.

Efforts to secure payment of monies owed independent truckers under the Commission's emergency fuel surcharge program were initiated in 1980.[10] While the program has enjoyed a high incidence of compliance, enforcement initiatives have been required in a few instances. Thus, restitution to owner-operators of approximately $11,288 owed them by Star Carriers, Inc., of Blue Ball, PA, was negotiated. In addition, a civil action was filed August 26, 1980, in the U.S. District Court for the Eastern District of Pennsylvania against Tischler Express, Inc., for failing to comply with the Commission's leasing regulations and for failing to compensate owner-operators for increased fuel costs.

Anti-Rebating Practices

Tariff violations, including Elkins Act rebates and concessions, resulted in a $25,000 fine against The Atchison, Topeka and Santa Fe Railway Co. after it was found guilty by a Los Angeles jury of Elkins Act violations. In another case the Burlington Northern paid $150,000 in civil forfeitures based on concessions granted log shippers in the Pacific Northwest.

Southern Railway was fined $1.9 million on pleas of guilty and *nolo contendere* in an Elkins Act case brought in the District of South Carolina.

In a decision reached January 11, 1980, United States Steel was ordered to pay civil forfeitures amounting to $3.5 million for having received concessions or rebates from various railroads. The case was decided by the U.S. District Court for the District of Minnesota and is now on appeal.

Violation of Court Injunctions

Violations of outstanding court injunctions resulted in the imposition of criminal and civil penalties in several cases during 1980. Criminal contempt fines, ranging from $22,000 to $100,000, were assessed by courts for violations of outstanding orders enjoining unauthorized trucking operations. Civil contempt sanctions of $5,000 were imposed against Wycoff Company of Salt Lake City, UT, for failure to observe a district court order compelling compliance with ICC regulations dealing with C.O.D. shipments and extensions of credit.

[10]Ex Parte No. 311, *Expedited Procedures for Recovery of Fuel Costs.*

COURT ACTIONS

The Commission's implementation of regulatory reform often depends on the extent to which the Commission's decisions are upheld by the courts. Although the percentage of Commission decisions challenged in the courts is not large, the challenged decisions are often some of the most significant agency decisions attempting to implement broad policy changes through rulemakings, or interpreting important sections of the Interstate Commerce Act as they apply to difficult factual situations.

During the past year, the Office of the General Counsel handled 736 cases in Federal Courts. At the beginning of the reporting period, 449 cases were pending, while 290 additional cases were instituted during the year. As of September 30, 1980, the courts had concluded 236 cases, with 499 in various stages of litigation. Of the cases concluded, 14 were by the Supreme Court, 212 by Federal Courts of Appeals, and 10 by Federal District Courts.

The Supreme Court agreed to hear an important case in which the Commission is participating as *amicus curiae*.[1] In this case, a shipper filed an action for damages in a state court against a railroad alleging that cessation of service to the shipper violated the railroad's obligation under state statutory and common law. The Court of Appeals of Iowa held that the state courts could entertain the suit despite the fact that, in a separate proceeding under the Interstate Commerce Act, the Commission had held that the railroad's cessation of service was lawful. The Commission and the railroad are contending in the Supreme Court that the state courts have no jurisdiction over the complaint, and that the decision of the Court of Appeals of Iowa would impair the Commission's ability to carry out its statutory responsibilities by subjecting a railroad to liability for damages under state law for cessation of service and abandonment of a line, even though the Commission had upheld the railroad's actions as lawful. Such a scheme would lead to inconsistent obligations being imposed on the Nation's railroads.

The United States Court of Appeals for the District of Columbia Circuit acted on an important case in which the Commission filed a brief with other independent regulatory agencies as *amicus curiae*.[2] The Federal Trade Commission appealed the decision of a United States District Court that held that Federal Trade Commission Chairman Pertschuk was disqualified from participating in a rulemaking on children's advertising because of prior public statements he had made indicating his prejudgment of factual issues and giving the appearance of bias. The District of Columbia Circuit Court adopted the view set forth in the Commission's *amicus* brief that agency rulemaking and adjudication are fundamentally different and require different tests for disqualification of agency members. We successfully argued that in a rulemaking, agency members act as policy-makers and legislators and must therefore be free to express their opinions.

[1] *Chicago and Northwestern Transportation Co. v. Kalo Brick & Tile*, Docket No. 79-1336 (October Term, 1979).

[2] Association of Nat. Advertisers, Inc. v. FTC, 627 F.2d 1151 (D.C. Cir. 1979).

Under the standard adopted by the court, an agency member is not to be disqualified from participation in a rulemaking proceeding for bias unless there is a "clear and convincing showing that he has an unalterably closed mind on matters critical to the disposition of the rulemaking."[3] This decision is a significant victory for all regulatory agencies because it allows their members to continue to debate publicly policy issues that may become the subject of rulemaking.

In the last year, the courts of appeals upheld several rulemaking decisions by the Commission. For example, the United States Court of Appeals for the District of Columbia Circuit upheld the Commission's regulations governing intervention in motor carrier licensing proceedings by persons opposing issuance of the license.[4] Until the challenged regulations went into effect, the Commission had permitted any person to file a protest to a motor carrier application without any prior showing of interest. Under the new rules, the Commission permits intervention as a matter of right to persons supporting the application and to any protesting carrier that submits a petition showing that it: is authorized to perform any of the service which applicant seeks authority to perform; has the necessary equipment and facilities to perform the service; and, has performed a service within the scope of the application. The court concluded that these protest standards did not exclude persons with a valid interest; they merely allowed the Commission to determine whether any given person had such an interest. The protest standards will help the Commission to eliminate frivolous protests and to more expeditiously handle the backlog of applications before the agency.

The District of Columbia Circuit sustained a Commission policy statement eliminating the "rule of eight" for determining contract carrier qualification.[5] The Commission found in its policy statement that a rule which put a fixed numerical limit on the number of shippers which a contract carrier could serve was too mechanical in nature. The policy statement set forth standards to determine whether a motor carrier served "a limited number of persons" under the Act and thus met the definition of a motor contract carrier, but set no numerical limit. The court's opinion focused on procedural issues of whether the policy statement was indeed a policy statement, or whether it was a "binding norm" that left the agency no discretion in individual cases. The court upheld the Commission's characterization of the statement. It held that the statement only set forth standards which were to be applied by the Commission on a case-by-case basis. As to petitioners' argument that the Commission is likely to abuse the new standards and grant a contract carrier permit to persons with no right to it, the court found the argument unripe for review until a specific case arises presenting the issue. Subsequently, Section 10 of the recently enacted Motor Carrier Act of 1980 effectively ratified the Commission's elimination of the "rule of eight" by deleting the "limited number of persons" element from the definition of a motor contract carrier.

[3]Id. at 1170.

[4]*American Trucking Assn's, Inc. v. United States*, 627 F.2d 1313 (D.C. Cir. 1980).

[5]*The Regular Common Carrier Conference v. United States*, 627 F.2d 525 (D.C. Cir. 1980).

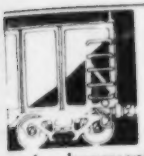
In another rulemaking, the United States Court of Appeals for the District of Columbia Circuit upheld Commission regulations governing lease practices in the trucking industry.[6] Truck leases commonly provide that independent operators who lease their equipment to regulated carriers must deposit in escrow with the regulated carrier as much as $2000 to insure performance and to cover damage claims. The regulations require a regulated carrier to return any escrow deposit to an independent operator within forty-five days after the end of the lease agreement. The regulations also require the regulated carriers to pay interest to the operator on such escrowed funds at the rate of interest earned by 13 week Treasury bills. The regulations were promulgated in response to serious financial problems experienced by independent truckers, who represent a substantial portion of the trucking industry.

In another important decision, the United States Court of Appeals for the District of Columbia Circuit upheld in part, and remanded in part, the Commission's decision in its rulemaking proceeding that studied the basic rate structure for recyclable materials.[7] The Commission originally instituted the proceeding because the 4R Act required it to determine whether the rate structure for recyclable and competing virgin natural resource materials was discriminatory or unreasonable. In 1977, the Commission issued a decision generally finding the rate structure lawful. In 1978, the court remanded that decision ("NARI I"). On remand, the Commission held: that the rate structure discriminated against recyclables; that the carriers could remedy the discrimination by equalizing the revenue/variable cost ratio for recyclable and virgin commodities at any level below the maximum reasonable level for the recyclables; and that the maximum reasonable rate for recyclables is a rate which produces a revenue/variable cost ratio of 180 percent.

The District of Columbia Circuit, in "NARI II," upheld the Commission's decision that the rate structure was discriminatory. The court went on, however, to reverse and remand the Commission's decision on the remedy issue, holding that in no event could the discrimination be remedied by an increase in recyclable rates. The court also remanded the Commission decision as to the maximum reasonable rate level on the ground that the agency had not adequately explained its reasoning for selecting the 180 percent figure.

The United States Court of Appeals for the Fourth Circuit affirmed in part and reversed in part an order of the Commission which required that a certain portion of the revenues from a general rate increase be spent by the railroads on deferred maintenance and delayed capital improvements.[8] The spending condition was first imposed by the Commission in 1974. Dissatified with these conditions, certain railroads brought a suit attacking the lawfulness of the conditions imposed and seeking to have the Commission's orders set aside. On appeal, the U.S. Supreme Court held that the Commission may, as a condition for not suspending

[6]*Global Van Lines, Inc. v. ICC*, 627 F.2d 546 (D.C. Cir. 1980).
[7]*National Ass'n of Recycling Industries, Inc. v. ICC*, 627 F.2d 1341 (D.C. Cir. 1980).
[8]*Norfolk & W. Ry. Co. v. ICC*, 619 F.2d 1033 (4th Cir. 1980).



and subsequently investigating the lawfulness of a proposed tariff, require the railroads to devote the additional revenues for the purposes the carriers invoked in support of the increase.[9] These conditions were amended in 1979 to increase the expenditures under it by the amount of inflation since 1974. The railroads challenged the amended condition on the grounds that the Commission did not have authority to impose any spending condition in light of the decline in rail earnings, and that is lacked authority to require increased expenditures through the inflation index. In its opinion, the court gave little attention to the issue of Commission authority, but rather treated the issue as a matter of contract law. If found that the agency could grant certain benefits to the railroads in return for a promise by the railroads to use their increased revenue for certain purposes, and that the railroads accept the Commission's order to allow rate increases in 1974, subject to the spending condition by filing a complying tariff. The court struck down the inflation index, however, because the Commission imposed it without following the technique used in 1974. The railroads were given no opportunity to accept or reject the Commission's proposal of the inflation index because it was adopted only after the general rate increase was made permanent. Accordingly, the court found that the railroads were under no obligation to spend the additional funds that the inflation index would require.

The United States Court of Appeals for the Third Circuit upheld in part and remanded in part orders of the Commission that formulated new car hire rules governing the rates paid by railroads for the use of each other's freight cars.[10] In this rulemaking proceeding, the Commission undertook to implement Section 212 of the 4R Act requiring that charges paid by a railroad for the use of another's freight cars be based on the elements of expense involved in owning and maintaining each type of freight car, including a fair return on the cost of each type freight car, giving consideration to current cost of capital, repairs, materials, and labor. The Commission prescribed interim per diem rates that included a new "current cost of capital" element but did not include other factors such as current car repair costs. The court affirmed the Commission's formula for the "current cost of capital" aspect of the new per diem charges, but vacated that portion of the decision that implemented the new charges before adjusting them for the other statutorily-mandated factors such as car repairs. The court in effect held that Section 212 of the Railroad Revitalization and Regulatory Reform (4R) Act could not be implemented on a piece-meal basis. Accordingly, the court suspended imposition of interim rules until the Commission had determined the current cost using all the factors enumerated in Section 212.

Although rulemaking is undoubtedly the most significant way in which a regulatory agency sets policy, the adjudicatory process is also an important tool through which the Commission can formulate policy and regulatory reform. For example, the opinion of the United States

[9] *United States et al. v. Chesapeake & Ohio Railway Co., et al.*, U.S. Supreme Court No. 75-420.

[10] *Consolidated Rail Corp. v. United States*, 696 F.2d 988 (3d Cir. 1980).

Court of Appeals for the District of Columbia Circuit in the San Antonio coal rate case has had an important impact on the Commission. This case involved review of the Commission's October 1978 (San Antonio II) and June 1979 (San Antonio III) decisions prescribing the maximum reasonable rate for unit train shipments of coal from a Wyoming mine to San Antonio, Texas.[11] In 1976, the Commission prescribed a rate for this western coal movement.[12] Later, the Commission modified this rate upward to the full costs of the San Antonio service, adjusted to include a rate of return on the carriers' investment equal to current cost of capital as a "revenue need" factor (San Antonio II). Still later, the Commission set a rate at seven percent above full costs on the San Antonio movement (San Antonio III). The court upheld the Commission's general method of determining a maximum reasonable rate, which was to rely on costs of service rather than on evidence of comparable rate for other movements. The court also sustained the Commission on many of its cost findings.

However, in regard to the Commission's use of the seven percent increment above full costs, designed to assist carriers in attaining adequate revenue levels in accordance with the mandate of the 4R Act, the court reversed and remanded. The court had no objection to the theory that rates on some services must be set at levels higher than full costs to compensate for other services that the railroads must price below full costs to remain competitive. Nevertheless, it found that the Commission had not adequately justified its use of the seven percent figure. The court directed the Commission, on remand, to more fully explain its reasons for choosing a particular percentage increment, if any, taking into account the interests of the public in coal conversion and the interests of shippers who have no alternative means of transporting their coal.

Also in the ratemaking area, the United States District Court for the District of Columbia overturned a Commission decision awarding a shipper a two percent refund of overcharges collected by the railroads—the difference between 14 percent mistakenly taken by the railroads and the 12 percent increase which was authorized.[13] The district court found that it, rather than the court of appeals, had jurisdiction to review the Commission's decision, because it is an "order[s] for the payment of money" under 28 U.S.C. 1336(a), and has no prospective effect. The court further agreed with the shipper that the entire 14 percent increase taken by the railroads was invalid and must be refunded because it exceeded the 12 percent authorized in the Commission's general rate increase order. The Commission has appealed the case to the D.C. Circuit Court of Appeals.

The major question is whether the Commission's discretion in determining the appropriate amount of damages to

[11]*San Antonio, Texas Acting By and Through Its City Public Service Board v. United States*, Docket No. 78-2051, D.C. Cir. (June 9, 1980).

[12]This decision was affirmed on judicial review in *Burlington Northern, Inc. v. United States*, 555 F.2d 637 (8th Cir. 1977).

[13]*Genstar Chemical Limited v. United States*, 491 F. Supp. 391 (1980).

shippers is limited by the technicality of whether the tariff was "unlawfully established" in the first instance, or whether it may find that it was "lawfully established" but later found to be unlawful. It is well settled that in the latter circumstance, the Commission may award damages equal to the difference between the rate authorized and the rate actually charged. The Commission argued that it had the same discretion when, because of inadvertence or a minor error, a tariff is unlawfully established in the first instance. The Commission is also seeking delineation from the appeals court between Commission orders involving payment of money reviewable in the district courts and those reviewable exclusively in the courts of appeals. The Commission is arguing that cases involving questions of "national and widespread interest" should be reviewed only in the appeals courts, even if they incidentally happen to involve an order for payment of money.

The United States Court of Appeals for the Fifth Circuit affirmed the Commission's decision interpreting limitations on collective rail ratemaking imposed by the 4R Act.[14] The statute states that only carriers who can "practicably participate" in an interline movement may participate in collective ratemaking as to that movement. The court sustained the Commission's definition of "practicable participation," that limits participation to carriers who currently handle or have handled during the past two years the traffic that is the subject of the rate proposal.

The United States Court of Appeals for the Seventh Circuit set aside and remanded a Commission decision involving the exercise of its emergency powers under 49 U.S.C. 11123 to permit temporary operations over a line of the bankrupt Chicago, Rock Island and Pacific Railroad Company known as the "Tucumcari line."[15] The Commission interpreted Section 11123(a) (2) of the Interstate Commerce Act to provide the necessary authority to permit temporary operations because it empowered the Commission to take action in an emergency "to promote service in the interest of the public." The court dispute centered on the meaning of the phrase "promote service." The Commission asserted that this phrase meant "car service" because that was the term used in the predecessor to Section 11123(a)(2), and that that term was broad enough to include agency action granting authority to one carrier to operate over the tracks of another. The court found that this language authorized only the interchange of cars and not service by a carrier over another's railroad tracks.

Although the court set aside and remanded the Commission's decision in this case, Section 122 of the Rock Island Act subsequently modified the effect of this decision by specifically authorizing temporary operations over the lines of both the Rock Island and the Chicago, Milwaukee, St. Paul and Pacific Railroad Company.

[14]*Florida East Coast Ry. Co. v. United States*, 623 F.2d 391 (5th Cir. 1980).

[15]*Atchison, T. & S.F. Ry. Co. v. United States*, 617 F.2d 485 (7th Cir. 1980).

Another significant decision was issued by the United States Court of Appeals for the Eighth Circuit in the area of railroad abandonments.[16] The Commission denied the abandonment application of the Missouri Pacific Railroad Company after finding the line marginally profitable and in good condition.

The court of appeals held that the Commission should have considered the carrier's evidence on "opportunity costs," *i.e.*, the cost to the railroad of keeping valuable assets tied up in a marginal operation, rather than using them on other more efficient lines. The court also found that in computing avoidable costs, the Commission should have used replacement value of the equipment tied up in the line rather than book value.

The Commission won a significant victory when the United States Court of Appeals for the Second Circuit upheld the Commission's interpretation of language in the 4R Act concerning labor protective conditions in rail mergers, consolidations, and acquisitions.[17] In the 4R Act, Congress directed the Commission to approve rail mergers and other similar transactions only after imposing labor protective conditions "no less protective of the interests of employees" than those previously imposed under the Interstate Commerce Act and those imposed under the Railroad Passenger Service Act of 1970. The court held that the comprehensive conditions fashioned by the Commission in this case meet the 4R Act requirements.

Numerous significant cases are currently being litigated in the area of railroad bankruptcy and reorganization due to the demise of the Rock Island Railroad and the Milwaukee Railroad reorganization. The Commission is currently defending several of its orders in the United States Court of Appeals for the Seventh Circuit concerning whether the bankrupt Rock Island railroad is entitled to compensation in various areas. For example, in September 1979 the Commission ordered another rail carrier to provide service over the Rock Island's lines, but the Commission has also ruled that the Rock Island is not entitled to compensation from the directed carrier for use of the Rock Island's track and facilities.[18] Similarly, the Rock Island has challenged Commission compensation orders in regard to other carriers using the bankrupt's track and facilities under Section 122 of the Rock Island Act.[19]

In addition, the Commission and the United States are attempting to vacate the Rock Island reorganization court's injunction which prevents the Commission from performing its functions under Section 106 of the Rock Island Act. That section contemplates a Commission-imposed settlement of the Rock Island's labor protection responsibilities if the Trustee and affected employee organizations are unable to arrive at one voluntarily. The constitutionality of that provision is currently being litigated both

[16] *Missouri Pacific Railroad Co. v. United States*, 625 F.2d 168 (8th Cir. 1980).

[17] *New York Dock Ry. v. United States*, 609 F.2d 83 (2d Cir. 1979).

[18] *William M. Gibbons, Trustee of the Chicago, Rock Island and Pacific Railroad Company, Debtor, et al. v. United States*, appeal argued, No. 79-2413 (7th Cir. Oct. 31, 1980).

[19] *William M. Gibbons, Trustee of the Chicago, Rock Island and Pacific Railroad Company, Debtor, et al. v. United States*, appeal docketed, No. 80-2009, (7th Cir. Oct. 14, 1980).

before the United States Supreme Court[20] and in the United States Court of Appeals for the Seventh Circuit,[21] as now required by Section 24 of the Rock Island Act, as amended by Section 701 of the Staggers Rail Act of 1980.

Finally, the Commission is also participating in and urging confirmation of the settlement of employee protection claims entered into by the Milwaukee Railroad and its employee organizations before the Seventh Circuit pursuant to Section 24 of the Rock Island Act.[22]

There were several significant court decisions in the motor carrier operating rights area. The Commission lost a decision involving a 1978 Commission policy statement on Canadian restrictions. The policy statement eliminated the practice of requiring applicants seeking motor carrier authority to and from Canada to specify Canadian origin and destination points, named ports of entry, and complementary Canadian authority; removed those restrictions from certificates granted after March 1975; and made certain conditional certificates immediately effective.[23] The American Bus Association claimed that the Commission's "policy statement" was actually a "rule" and was not lawfully promulgated under the notice and comment procedures in Section 553 of the Administrative Procedure Act. The court found that the statement was not a general statement of policy because: (1) it was not strictly prospective; and (2) it left the agency insufficient discretion. It observed that the policy statement was not a statement of the agency's tentative intentions, but rather a command which eliminated all agency discretion in eliminating Canadian restrictions. Thus, the court found that the Commission should have used public notice and comment procedures.

Several important issues were favorably decided for the Commission by the United States Court of Appeals for the Seventh Circuit in a case affirming a Commission grant of motor carrier authority.[24] The court held that a quorum under the Interstate Commerce Act was a majority of the Commissioners actually in Office. The petitioners had argued that because a quorum was equal to a majority of the Commission, a majority of the authorized eleven member Commission, or at least six members, were needed to transact business. The court disagreed, finding that a quorum is determined by the number of members actually in office. The court also rejected the petitioners' contention that the Commission had changed the burden of persuasion in granting certificates of public convenience and necessity. The petitioners asserted that by requiring the protestants to show material harm in order to prevent the granting of an application, the Commission departed from its past

[20] *Railway Labor Executives' Ass'n v. William M. Gibbons, Trustee*, No. 80–415 (October Term, 1980).
[21] *In the Matter of: Chicago, Rock Island & Pacific Railroad Company*, appeal briefed, No. 80–1346 (7th Cir. October 1980).
[22] *In the Matter Of: Chicago, Rock Island & Pacific Railroad Company*, appeal briefed, No. 80–1346 (7th Cir. October 1980).
[23] *American Bus Ass'n v. United States*, 627 F.2d 525 (D.C. Cir. 1980).
[24] *Assure Competitive Transp. Co., Inc. v. ICC*, 629 F.2d 467 (7th Cir. 1980).

practice of imposing the burden of proving all three *Pan-American* criteria on the applicant. The court upheld the Commission, stating that although the Commission's view of what the public interest demands has and will change over time, the Commission properly placed the burden on applicant to demonstrate a need for the service, and then on the protestant to prove material harm sufficient to outweigh the public need.

Finally, the United States Court of Appeals for the District of Columbia Circuit affirmed a Commission order granting temporary authority to a company in the armored car market based on the Richmond Reserve Bank's need for increased competition on bidding for the service involved.[25] Petitioner's position was that competitive need has no place whatever in a grant of temporary authority because the temporary authority statute specifies only that the need for the service be immediate and that there be no other motor carrier capable of meeting that particular need. The court concluded from the legislative and administrative history of the Motor Carrier Act that the Commission can take account of a competitive need where that factor creates for the shipper an exigent, immediate need for the applicants' service. This decision marks the first judicial determination that the Commission may properly consider a need for competition in deciding whether to grant a temporary authority application.

[25] *Brink's Inc. v. United States*, 613 F.2d 1079 (D.C. Cir. 1979).

FINANCIAL OVERSIGHT

The Commission's financial oversight activities include accounting, auditing, financial analysis, costing, and reporting functions. These involve preparing, amending, and interpreting prescribed accounting and financial reporting rules, examining and analyzing accounts and financial statements, and compiling and publishing transportation statistics and cost studies.

Accounting and Reporting Rulemakings

The Commission's prescribed accounting and reporting systems are continually reviewed with the objective of providing current and useful information. This program includes modernizing the systems to keep pace with generally accepted accounting principles (GAAP). In developing amendments to these systems, the rulemaking process allows interested parties to participate in formulating the rules.

The Commission focused its effort this year on reducing reporting burdens. A policy was implemented to require reports only for information needed by the Commission regularly. This resulted in the streamlining and elimination of the following forms and accounting provisions:

- Form QL&D–R&M, the quarterly report of freight loss and damage claims, was eliminated from the filing requirements of Class I railroads, and all common and contract carriers of property with average annual operating revenues of $1 million or more.[1]
- Classification rules for railroad switching and terminal companies were eliminated, and the companies were designated Class III railroads.[2]
- Annual Report Form M–3, for Class III motor carriers of property was streamlined to a one-page report.[3]
- Quarterly Form QFR was simplified, and certain contract motor carriers were allowed to use the one-page Form QFR–S.[4]
- The report forms and accounting system for electric railway companies were eliminated.[5]
- Annual Report Form B–1, the required report for refrigerator car lines was eliminated. Instead these carriers must file the simplified Annual Report Form C–1.
- The annual and quarterly report forms for pipeline companies were eliminated.[6]
- The Piggyback Traffic Statistics reports data elements were incorporated as a part of the carriers' annual reports, and the confidentiality feature was dropped in order to reduce processing burden.[7]

[1]Docket No. 37117, *Elimination of Requirement to File Quarterly Report Form QL&D*, (not printed), decided May 8, 1980.

[2]Docket No. 37218, *Revision to Accounting and Reporting Requirements for Switching and Terminal Companies*, (not printed), decided October 25, 1979.

[3]Docket No. 37211, *Revision for Annual Report Form M–3*,(not printed), decided December 31, 1979.

[4]Docket No. 37002, *Revisions to Annual Report Form QFR and Elimination of Filing Requirement for Certain Carriers*, (not printed), decided November 2, 1979.

[5]Docket No. 37345, *Revision to Accounting and Reporting Requirements for Electric Railway Companies*, (not printed), decided March 4, 1980.

[6]Docket No. 37256, *Elimination of Annual and Quarterly Reporting Requirements for Pipeline Companies*, (not printed), decided October 25, 1979.

[7]Docket No. 34364 (Sub-No. 4), *Elimination of Piggyback Traffic Statistics Report's Confidentiality*, (not printed), decided November 16, 1979.

- The regulations governing passes and free transportation aboard railroads, motor carriers and water carriers were eliminated.[8]

The Commission also undertook the following financial investigations and rulemakings:

- A final rule which revised the accounting regulations for identifying railroad rebuilding expenditures. The regulation now aligns with the provisions of generally accepted accounting principles.[9]
- A final rule which prescribed new procedures governing the data and information to be submitted by motor common carriers of general commodities in general revenue proceedings.[10]
- A proceeding to determine new procedures and standards for measuring revenue needs of regular route motor common carriers of general freight.[11]
- A proceeding to determine whether results and proposals in the study should be used by motor carriers in proceedings where the allocation of platform handling costs is required.[12]
- A proceeding to provide a mechanism whereby regulated carriers can attempt to reflect rapidly increasing fuel costs in the rate structure as quickly as possible.[13]
- A proceeding which proposed to permit carriers for the first time to perform depreciation studies and prepare depreciation rates, instead of the Commission.[14]

Cost and Financial Analysis

The Section of Cost and Financial Analysis provided the Commission with analyses of motor carrier and rail general rate increases for the Commission's use in determining the revenue needs of each mode. This included the determination whether such rate increases were justified based on cost increases experienced by these industries and their ongoing endeavors to attract capital. The Section developed in-house computer programs designed to facilitate these analyses and to provide the Commission with an array of timely data. The most recent analysis of railroad financial data concluded that 11 percent was a representative figure for comparing cost of capital or fair return rate with returns on net investment.[15]

A major rulemaking function is the continued analysis of cost and financial evidence in suspension, investigative and complaint proceedings involving unit train coal rates. Coal conversion by many of the Nation's public utilities and manufacturers has increased reliance on the railroads to transport this bulk commodity.

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[8]Docket No. 37392, *Elimination of Regulation Over Passes and Free Transportation*, (not printed), decided August 15, 1980.

[9]Docket No. 32153 (Sub-No. 7), *Rebuilding Rule for Railroad Property Units*, (not printed), decided November 7, 1979.

[10]*New Procedures in Motor Carrier Revenue Proceedings*, 361 I.C.C. 865 (1979).

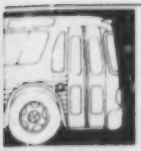
[11]Ex Parte No. MC–128, *Revenue Need Standards in Motor Carrier General Increase Proceedings*.

[12]Ex Parte No. 129, *1977–78 Platform Study of Class I and Class II Motor Common Carriers of General Freight Subject to Accounting Instruction 27*.

[13]Ex Parte No. 311, *Expedited Procedures for Recovery of Fuel Costs*.

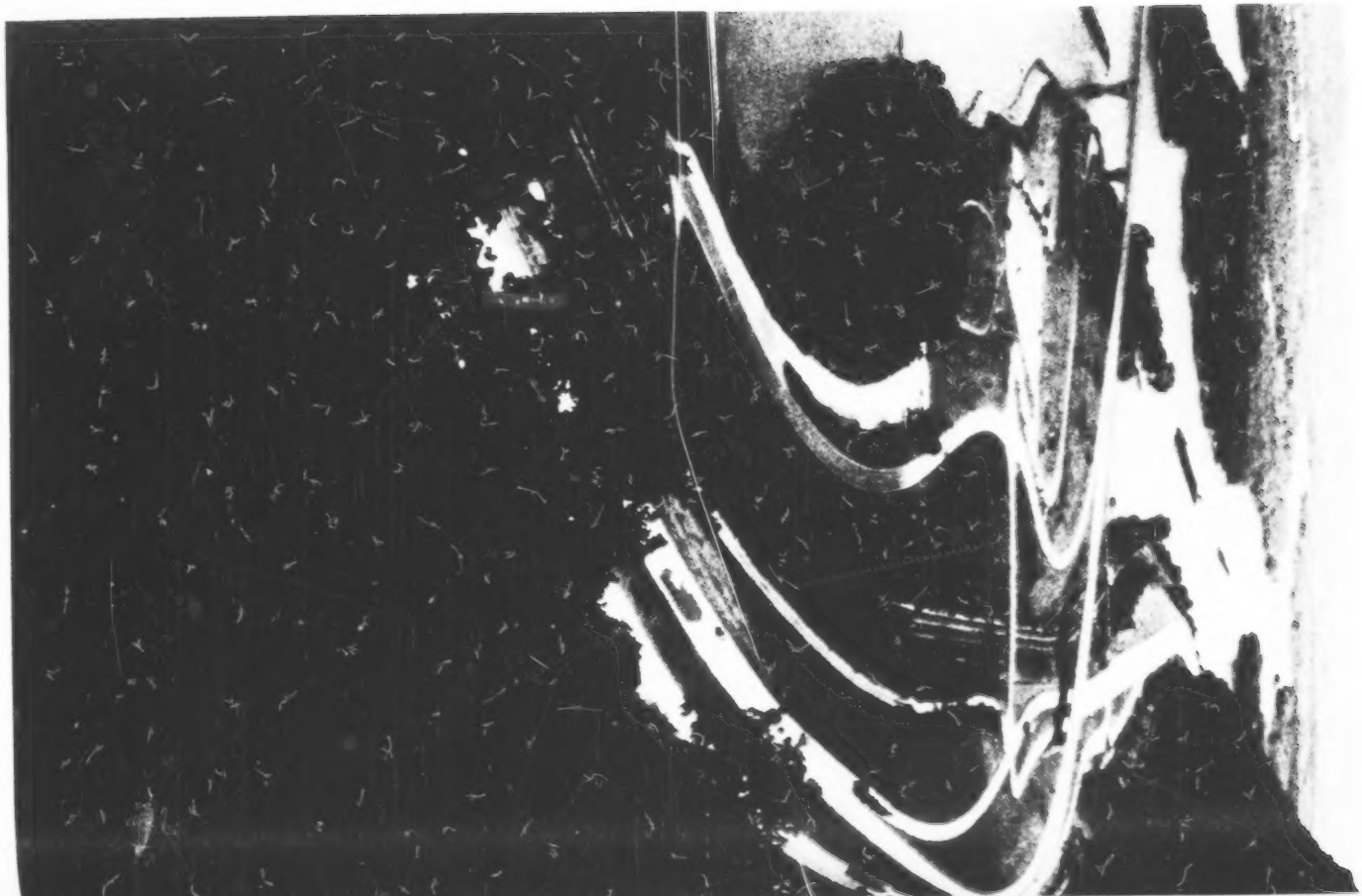
[14]Docket No. 37281, *Railroad Performing Depreciation Studies*, (NPR), (not printed), decided March 4, 1980.

[15]Ex Parte No. 363, *Adequacy of Railroad Revenue (1979 Determination)*, decided December 26, 1979.



Because transportation costs are highly critical to the continued use of coal as an energy source, cost determination for unit train coal movements is a major activity. A special task force was formed to analyze the highly complex data which the railroads and shippers use to negotiate rates.

Only two loan guarantees to railroads under Part V of the Interstate Commerce Act are outstanding. The remaining loan guarantees are in default and all involve bankrupt railroads. The Department of Justice is presently attempting to settle these loan guarantees.



APPENDIX A

Commission Organization (as of September 30, 1980)

The major bureaus and offices of the Commission are listed below. Heads of each bureau or office report to the Chairman via the channels indicated on the organization chart.

STAFF OFFICIALS

Office of the Chairman	
Office of Communications:	
Director	Douglas Baldwin
Office of Government Affairs:	
Congressional Relations Officer	Bruce N. Hatton
Small Business Assistance Office	
Director	Bernard Gaillard
Office of the Managing Director:	
Managing Director	Sanford Rederer
Assistant Managing Director	John C. Surina
Assistant Managing Director	William Redmond, Jr.
Director, Personnel Office	Richard H. Mooers
Chief, Budget and Fiscal Office	Mary G. Hogya
Chief, Administrative Services	Virgil L. Schultz
Chief, Systems Development	Alden E. Luke
Chief, Management Services	J. B. Robinson
Office of the Secretary:	
Secretary	Agatha L. Mergenovich
Assistant Secretary	James H. Bayne
Office of the General Counsel:	
General Counsel	Richard A. Allen
Deputy General Counsel	Robert S. Burk
Associate General Counsel Section of Legislation	Hanford O'Hara
Associate General Counsel Section of Litigation and Legal Counsel	Frederick W. Read
Associate General Counsel Section of Litigation and Legal Counsel	Henri F. Rush
Office of Proceedings:	
Director	Gary Edles
Associate Director	Michael Erenberg
Deputy Director, Section of Finance	Ellen Hanson
Deputy Director, Section of Operating Rights	Edward E. Guthrie
Deputy Director, Section of Rates	Richard B. Felder

STAFF OFFICIALS—Continued

Office of Policy and Analysis:

Director	Alexander L. Morton
Associate Director	Constance L. Abrams
Deputy Director, Section of Rail Services Planning	Richard J. Schiefelbein
Deputy Director, Section of Special Projects	Ernest R. Olson
Deputy Director, Section of Motor Policy	Richard Klem
Deputy Director, Section of Rail Policy	Bruce Stram

Office of Hearings:

Chief Administrative Law Judge	David H. Allard
Assistant Chief Administrative Law Judge	James E. Hopkins
Assistant Chief Administrative Law Judge	Nolin J. Bilodeau

Office of Special Counsel:

Special Counsel	Edward J. Schack
Deputy Special Counsel	Clarke W. Brinckerhoff

Bureau of Accounts:

Director	Ronald S. Young
Deputy Director	Robert G. Harris

Office of Consumer Protection:

Director	Joel E. Burns
Associate Director	Robert S. Turkington
Deputy Director, Policy Development & Coordination Staff	Lewis R. Teeple
Deputy Director, Section of Consumer Assistance	John H. O'Brien
Deputy Director, Section of Enforcement	Charles E. Wagner

Bureau of Traffic

Director	Martin E. Foley
Assistant Director	Neil S. Llewellyn

DIRECTORY OF INTERSTATE COMMERCE COMMISSION FIELD OFFICES AND REGIONAL HEADQUARTERS

Region I

Regional Headquarters	Robert L. Abare, *Regional Director*, 150 Causeway St., Room 501, Boston, MA 02114
Connecticut	Federal Bldg., 136 High St., Hartford, CT 06103
Maine	76 Pearl Street, Rm. 303, Portland, ME 04101
Massachusetts	338–342 Federal Bldg., 436 Dwight St., Springfield, MA 01103
New Hampshire	Christian Life Bldg., 6 Loudon Road, Concord, NH 03301
New Jersey	744 Broad St., Room 552, Newark, NJ 07102
New York	910 Federal Bldg., 111 West Huron St., Buffalo, NY 14202
	26 Federal Plaza, Room 1807, New York, NY 10278
Rhode Island	John E. Fogary Federal Bldg., 24 Weybosset St., Room 102, Providence, RI 02903
Vermont	87 State St., Room 303, Montpelier, VT 05602, Mail Address: P.O. Box 548

Region II

Regional Headquarters	M. Faith Angell, *Regional Director*, Federal Reserve Bank Bldg., 101 North 7th St., Room 620, Philadelphia, PA 19106
Delaware	See nearest IC Field Office in New Jersey, Maryland or Pennsylvania
Maryland	1025 Federal Bldg., Charles Center, 31 Hopkins Plaza, Baltimore, MD 21201
Ohio	Celebrezze Federal Building, Room 2069, 1240 East 9th St., Cleveland, OH 44199
Pennsylvania	Federal Reserve Bank Building, 101 N. 7th St., Room 620, Philadelphia, PA 19106
	2111Federal Bldg., 1000 Liberty Ave., Pittsburgh, PA 15222
Virginia	10–502 Federal Bldg., 400 North 8th St., Richmond, VA 23240
West Virginia	416 Old Post Office Building, 12th and Chapline Sts., Wheeling, WV 26003

DIRECTORY OF INTERSTATE COMMERCE COMMISSION FIELD OFFICES AND REGIONAL HEADQUARTERS—Continued

Region III

Regional Headquarters	Benjamin R. McKenzie, *Regional Director*, 1776 Peachtree St., N.W., Room 300, Atlanta, GA 30309
Alabama	2121 Building, Suite 1616, 2121 8th Ave., North Birmingham, AL 35203
Florida	288 Federal Building, 400 West Bay St., Building Box No. 35008, Jacksonville, FL 32202
	Monterey Building, Suite 101, 8410 N. W. 53rd Terrace, Miami, FL 33166
Georgia	1252 West Peachtree St., N.W., Room 300, Atlanta, GA 30309
Kentucky	426 U.S. Post Office, 601 West Broadway, Louisville, KY 40202
Mississippi	Federal Building, Suite 1441, 100 West Capitol Street, Jackson, MS 39201
North Carolina	Room CC–516 Mart Office Bldg., 800 Briar Creek Rd., Charlotte, NC 28205
South Carolina	Strom Thurmond Federal Building, 1835 Assembly St., Suite 866, Columbia, SC 29201
Tennessee	100 N. Main Bldg., 100 N. Main St., Suite 2006, Memphis, TN 38103
	Federal Bldg., 801 Broadway A422, Nashville, TN 37203

Region IV

Regional Headquarters	Alfred E. Rathert, *Regional Director*, Everett McKinley Dirkson Bldg., Room 1304, 219 South Dearborn St., Chicago, IL 60604
Illinois	Everett McKinley Dirksen Bldg., Room 1304, 219 South Dearborn St., Chicago, IL 60604
Indiana	429 Federal Bldg. and U.S. Courthouse, 46 East Ohio St., Indianapolis, IN 46204
Michigan	201 Corr Bldg., 300 West Michigan St., Lansing, MI 48933
Minnesota	414 Federal Bldg. and U.S. Courthouse, 110 South 4th St., Minneapolis, MN 55401

North Dakota	268 Federal Bldg. and U.S. Post Office, 657 2nd Ave., North Fargo, ND 58102
South Dakota	Federal Bldg., Room 322, Pierre, SD 57501
Wisconsin	U.S. Federal Bldg. and Courthouse, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202

Region V

Regional Headquarters	Jack K. Huff, *Regional Director*, 411 West 7th St., Suite 600, Fort Worth, TX 76102
Arkansas	3108 Federal Bldg., Little Rock, AR 72201
Iowa	518 Federal Bldg., 210 Walnut St., Des Moines, IA 50309
Kansas	101 Litwin Bldg., 110 N. Market St., Wichita, KS 67202
Louisiana	T–9038 Federal Bldg., U.S. Post Office, 701 Loyola Ave., New Orleans, LA 70113
Missouri	600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106
	210 North 12th Street, Room 1465, St. Louis, MO 63101
Nebraska	Suite 620, 110 North 14th St., Omaha, NE 68102
Oklahoma	240 Old U.S. Post Office and Courthouse, 215 Northwest 3rd St., Oklahoma City, OK 73102
Texas	411 West 7th St., Suite 600, Forth Worth, TX 76102
	8610 Federal Bldg. and U.S. Courthouse, 515 Rusk Ave., Houston, TX 77002

Region VI

Regional Headquarters	J. Warren McFarland, *Regional Director*, Suite 500, 211 Main St., San Francisco, CA 94105
Alaska	Federal Building & U.S. Courthouse, 701 C Street, Box 7, Anchorage, AK 99513
Arizona	2020 Federal Bldg., 230 North 1st Ave., Phoenix, AZ 85025
California	1321 Federal Bldg., 300 North Los Angeles St., Los Angeles, CA 90012
	211 Main St., Suite 500, San Francisco, CA 94105
Colorado	492 U.S. Cutoms House, 721 19th St., Denver, CO 80202

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DIRECTORY OF INTERSTATE COMMERCE COMMISSION FIELD OFFICES AND REGIONAL HEADQUARTERS—Continued

Idaho	1471 Shoreline Dr., Rm. 110, Boise, ID 83702
Montana	Rm. 222, 2602 First Ave., North Billings, MT 59101
Nevada	107 Federal Bldg., 705 North Plaza St., Carson City, NV 89701
New Mexico	1106 Federal Office Bldg., 517 Gold Ave., S.W., Albuquerque, NM 87101
Oregon	114 Pioneer Courthouse, 555 S.W. Yamhill St., Portland, OR 97204
Utah	5301 Federal Bldg., 125 South State St., Salt Lake City, UT 84138
Washington	858 Federal Bldg., 915 2nd Ave., Seattle, WA 98174
Wyoming	105 Federal Bldg. & U.S. Courthouse, 111 South Wolcott, Casper, WY 82601

INTERSTATE COMMERCE COMMISSIONERS 1887–1980

Interstate Commerce Commissioners	*State*	*Party*	*Oath of Office*	*End of Service*
1. COOLEY, Thomas M.	MI	Rep.	Mar. 31, 1887	Jan. 12, 1892
2. MORRISON, William R.	IL	Dem.	Mar. 31, 1887	Dec. 31, 1897
3. SCHOONMAKER, Augustus	NY	Dem.	Mar. 31, 1887	Dec. 31, 1890
4. WALKER, Aldace F.	VT	Rep.	Mar. 31, 1887	Mar. 31, 1889
5. BRAGG, Walter L.	AL	Dem.	Mar. 31, 1887	Aug. 21, 1891
6. VEAZEY, Wheelock G.	VT	Rep.	Sept. 10, 1889	Dec. 20, 1896
7. KNAPP, Martin A.	NY	Rep.	Mar. 2, 1891	Dec. 12, 1910
8. McDILL, James W.	IA	Rep.	Jan. 13, 1892	Feb. 28, 1894
9. CLEMENTS, Judson C.	GA	Dem.	Mar. 17, 1892	June 18, 1917
10. YEOMANS, James D.	IA	Dem.	May 2, 1894	Mar. 6, 1905
11. PROUTY, Charles A.	VT	Rep.	Dec. 21, 1896	Feb. 2, 1914
12. CALHOUN, William J.	IL	Rep.	Mar. 21, 1898	Sept. 30, 1899
13. FIFER, Joseph W.	IL	Rep.	Nov. 4, 1899	Dec. 30, 1905
14. COCKRELL, Francis M.	MO	Dem.	Mar. 11, 1905	Dec. 31, 1910
15. LANE, Franklin K.	CA	Dem.	July 2, 1906	Mar. 5, 1913
16. CLARK, Edgar E.	IA	Rep.	July 31, 1906	Aug. 13, 1921
17. HARLAN, James S.	IL	Rep.	Aug. 28, 1906	Dec. 31, 1918
18. McCHORD, Charles C.	KY	Dem.	Dec. 31, 1910	Jan. 1, 1926
19. MEYER, Balthasar H.	WI	Rep.	Dec. 31, 1910	Apr. 30, 1939
20. MARBLE, John H.	CA	Dem.	Mar. 10, 1913	Nov. 21, 1913
21. HALL, Henry C.	CO	Dem.	Mar. 21, 1914	Jan. 13, 1928
22. DANIELS, Winthrop M.	NJ	Dem.	Apr. 6, 1914	July 1, 1923
23. AITCHISON, Clyde B.	OR	Rep.	Oct. 5, 1917	July 10, 1952
24. WOOLLEY, Robert W.	VA	Dem.	Oct. 5, 1917	Dec. 31, 1920
25. ANDERSON, George W.	MA	Dem.	Oct. 15, 1917	Nov. 5, 1918
26. EASTMAN, Joseph B.	MA	Ind.	Feb. 17, 1919	Mar. 15, 1944
27. FORD, Henry J.[1]	NJ	Dem.	June 11, 1920	Mar. 4, 1921
28. POTTER, Mark W.	NY	Dem.	June 24, 1920	Feb. 20, 1925
29. ESCH, John J.	WI	Rep.	Mar. 28, 1921	May 29, 1928
30. CAMPBELL, Johnston B.	WA	Rep.	May 5, 1921	Jan. 6, 1930

[1]Recess appointment only, not confirmed.

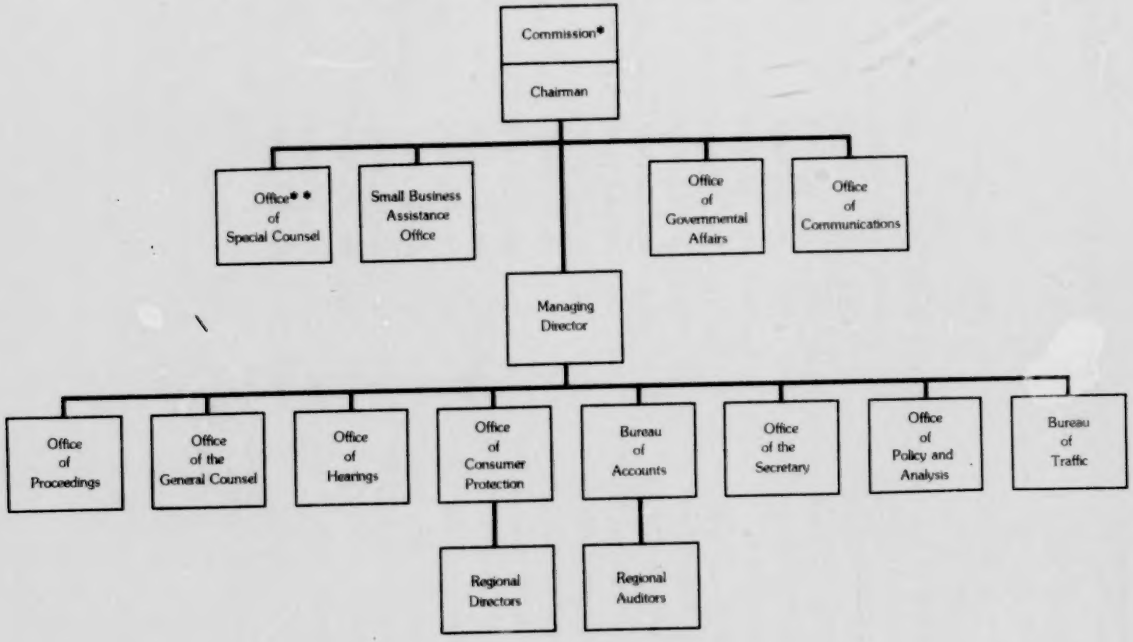
Interstate Commerce Commissioners	*State*	*Party*	*Oath of Office*	*End of Service*
31. LEWIS, Ernest I.	IN	Rep.	May 5, 1921	Dec. 31, 1932
32. COX, Frederick I.	NJ	Rep.	Sept. 1, 1921	Dec. 31, 1926
33. McMANAMY, Frank	D.C.	Dem.	June 28, 1923	Apr. 30, 1939
34. WOODLOCK, Thomas F.	NY	Dem.	Apr. 1, 1925	Aug. 31, 1930
35. TAYLOR, Richard V.	AL	Dem.	Jan. 16, 1926	Dec. 31, 1929
36. BRAINERD, Ezra, Jr.	OK	Rep.	Feb. 23, 1927	Dec. 31, 1933
37. PORTER, Claude R.	IA	Dem.	Jan. 28, 1928	Aug. 17, 1946
38. FARRELL, Patrick J.	D.C.	Dem.	June 7, 1928	Dec. 31, 1934
39. LEE, William E.	ID	Rep.	Jan. 18, 1930	Aug. 18, 1953
40. TATE, Hugh M.	TN	Rep.	Feb. 28, 1930	Sept. 16, 1937
41. MAHAFFIE, Charles D.	D.C.	Dem.	Sept. 2, 1930	Dec. 31, 1954
42. MILLER, Carroll	PA	Dem.	June 14, 1933	Dec. 24, 1949
43. SPLAWN, Walter M. W.	TX	Dem.	Feb. 1, 1934	June 30, 1953
44. CASKIE, Marion M.	AL	Dem.	Aug. 26, 1935	Mar. 31, 1940
45. ROGERS, John L.	TN	Rep.	Sept. 16, 1937	Apr. 30, 1952
46. ALLDREDGE, J. Haden	AL	Dem.	May 1, 1939	Oct. 31, 1955
47. PATTERSON, William J.	ND	Ind.	July 31, 1939	July 10, 1953
48. JOHNSON, J. Monroe	SC	Dem.	June 3, 1940	June 4, 1956
49. BARNARD, George M.	IN	Rep.	Dec. 2, 1944	Jan. 2, 1949
50. MITCHELL, Richard F.	IA	Dem.	Feb. 3, 1947	June 15, 1959
51. CROSS, Hugh W.	IL	Rep.	Apr. 11, 1949	Nov. 25, 1955
52. KNUDSON, James K.	UT	Rep.	Apr. 20, 1950	May 22, 1954
53. ELLIOTT, Kelso	IN	Rep.	July 10, 1952	Feb. 29, 1956
54. ARPAIA, Anthony F.	CT	Dem.	July 11, 1952	Mar. 15, 1960
55. CLARKE, Owen	WA	Rep.	July 10, 1953	Jan. 15, 1958
56. FREAS, Howard G.	CA	Rep.	Aug. 18, 1953	Dec. 31, 1966
57. TUGGLE, Kenneth H.	KY	Rep.	Sept. 8, 1953	July 31, 1975
58. WINCHELL, John H.	CO	Rep.	July 28, 1954	Apr. 3, 1961
59. HUTCHINSON, Everett	TX	Dem.	Feb. 1, 1955	Mar. 31, 1965
60. MURPHY, Rupert L.	GA	Dem.	Dec. 30, 1955	Aug. 31, 1978
61. MINOR, Robert W.	OH	Rep.	Feb. 15, 1956	Sept. 30, 1958
62. WALRATH, Laurence K.	FL	Dem.	Mar. 29, 1956	June 30, 1972
63. McPHERSON, Donald P., Jr.	PA	Rep.	June 4, 1956	Mar. 29, 1963
64. GOFF, Abe McGregor	ID	Rep.	Feb. 12, 1958	July 30, 1967
65. WEBB, Charles A.	VA	Rep.	Sept. 30, 1958	Mar. 31, 1967

Interstate Commerce Commissioners	*State*	*Party*	*Oath of Office*	*End of Service*
66. HERRING, Clyde E.	IA	Dem.	Sept. 21, 1959	May 25, 1964
67. BUSH, John W.	OH	Dem.	Apr. 3, 1961	Nov. 2, 1972
68. TUCKER, William H.	MA	Dem.	Apr. 3, 1961	Dec. 31, 1967
69. TIERNEY, Paul J.	MD	Rep.	Mar. 29, 1963	Feb. 28, 1970
70. BROWN, Virginia Mae	WV	Dem.	May 25, 1964	July 23, 1979
71. DEASON, Willard	TX	Dem.	Sept. 8, 1965	July 31, 1975
72. STAFFORD, George M.	KS	Rep.	Apr. 26, 1967	Aug. 31, 1980
73. SYPHERS, Grant E.	CA	Rep.	July 31, 1967	Feb. 5, 1968
74. HARDIN, Dale W.	IL	Rep.	July 31, 1967	Aug. 31, 1977
75. BURKE, Wallace R.	CT	Dem.	Aug. 21, 1968	June 28, 1969
76. JACKSON, Donald L.	CA	Rep.	Mar. 20, 1969	June 30, 1972
77. GRESHAM, Robert C.*	MD	Rep.	Dec. 15, 1969	
78. BREWER, W. Donald	CO	Rep.	July 23, 1970	June 30, 1974
79. WIGGIN, Chester M. Jr.	NH	Rep.	Oct. 24, 1972	July 31, 1973
80. McFARLAND, Alfred T.	TN	Ind.	Nov. 1, 1972	Nov. 10, 1977
81. MONTEJANO, Rodolfo[1]	CA	Dem.	Nov. 3, 1972	Mar. 2, 1973
82. O'NEAL, A. Daniel Jr.	WA	Dem.	Apr. 12, 1973	Dec. 31, 1979
83. CLAPP, Charles L.*	MA	Rep.	Mar. 14, 1974	
84. CORBER, Robert J.	VA	Rep.	Mar. 13, 1975	Dec. 1, 1976
85. CHRISTIAN, Betty Jo	TX	Dem.	Apr. 7, 1976	Dec. 31, 1979
86. TRANTUM, Thomas A.*	CT	Rep.	July 23, 1979	
87. GASKINS, Darius W.*	D.C.	Dem.	July 23, 1979	
88. ALEXIS, Marcus*	IL	Dem.	Aug. 27, 1979	
89. GILLIAM, Reginald E.*	VA	Dem.	Apr. 21, 1980	

*Commissioners who are still serving.

[1]Recess appointment only, not confirmed.

INTERSTATE COMMERCE COMMISSION



November 1980

*In deciding most proceedings, the Commission is divided into two divisions of general jurisdiction, each comprised of three Commissioners. Rulemakings and significant adjudications are decided by the entire Commission.

**Subject to administrative supervision of the Chairman, but in all other respects is accountable to the Commission.

APPENDIX B

Commission Workload

TABLE 1.—Distribution by method of disposition of proceedings cases opened and closed during fiscal year 1980

	Finance							
		Closings						
Case Type	Openings	Modified Procedure	Unopposed Grants	Decided by Effective ALJ Decision	Decided by Final Report after ALJ Decision	Dismissed Withdrawn	Other	Total
Rulemakings	6	7	1	0	0	0	1	9
Abandonments	139	57	55	9	19	12	4	156
Finance docket excluding motor security	294	102	109	5	5	9	56	286
Motor securities applications	106	49	58	0	1	11	1	120
Motor carrier finance	304	148	232	26	21	34	1	462
Directly related MC applications	93	42	78	18	14	14	0	166
Other	6	0	0	0	2	0	1	3
TOTAL	948	405	533	58	62	80	64	1202

	Rates							
		Closings						
Case Type	Openings	Modified Procedure	Unopposed Grants	Decided by Effective ALJ Decision	Decided by Final Report after ALJ Decision	Dismissed Withdrawn	Other	Total
Rulemakings	59	18	0	0	0	9	0	27
Investigation & suspension	32	6	0	0	0	45	0	51
Investigation & suspension (motor)	156	37	0	0	0	142	2[1]	181
Rail investigation without suspension	30	14	0	0	0	58	10[1]	82
Other rail formal docket	154	7	0	77	54	44	10[1]	192
Formal docket (motor)	37	1	0	11	9	13	1	51
Protective service contract	0	0	122	0	0	0	0	122
Rate bureau agreements	1	10	0	0	0	78	5[1]	93
Other	2	0	0	0	0	3	0	3[2]
TOTAL	471	109	122	88	63	392	28	802

[1]—Decided on reopening.
[2]—Includes 2 WC and 1 FSA.

TABLE 1.—Distribution by method of disposition of proceedings cases opened and closed during fiscal year 1980—Continued

	Operating Rights							
		Closings						
Case Type	Openings	Modified Procedure	Unopposed Grants	Decided by Effective ALJ Decision	Decided by Final Report after ALJ Decision	Dismissed Withdrawn	Other	Total
Rulemakings	33	12	0	0	0	1	17[1]	30
Motor carrier operating rights	19765	2134	19048	517	458	513	65	22.735
Motor carrier complaints	16	6	0	5	3	7	2	23
Water carrier operating rights	17	1	6	0	0	0	0	7
Freight forwarder operating rights	24	4	13	0	1	0	1	19
Other	22	10	0	3	7	0	10	30[2]
TOTAL	19877	2167	19067	525	469	521	95	22844

[1]17—Discontinued pursuant to enactment of Motor Carrier Act of 1980. [2]Includes 1 MCF, 1 NOR and 1 FFC.

TABLE 2.—Rulemaking proceedings pending and closed during fiscal year 1980

RULES AFFECTING THE BROAD RANGE OF TRANSPORTATION

(* indicates action completed)

Ex Parte No. 55 (Sub-No. 22)	Revision of National Environmental Policy Act Guidelines
Ex Parte No. 55 (Sub-No. 41)	Administrative Stays in Non-Rail and Rail Proceedings
Ex Parte No. 55 (Sub-No. 47)*	Policy on Transfer of Certificates of Registration to Multi-State Carriers, not printed, decided August 29, 1980.
Ex Parte No. 73	Regulations for Payment of Rates and Charges
Ex Parte No. 73 (Sub-No. 1)	Regulations for Payment of Rates and Charges—Credit Period on Prepaid Shipment
Ex Parte No. 260	Revised Regulations Governing Officers
Ex Parte No. 332*	Voting Trust Regulations, not printed, decided October 10, 1979.
Ex Parte No. 350*	Improving Commission Regulations, not printed, decided July 2, 1979.
Ex Parte No. 366	Legal Assistance Referral Service
Ex Parte No. 370	Tariff Improvement
Ex Parte No. 372	Notice to Shippers of Freight Refused or Unclaimed at Destination
Ex Parte No. 373*	Impact of Commission Decisions on Small Businesses 132 M.C.C. 74 (1980)

RULES AFFECTING THE BROAD RANGE OF TRANSPORTATION (continued)

Ex Parte No. 382	Recordation of Documents
No. 37160*	Zone of Reasonableness—Petition for Rulemaking, consolidated with Ex Parte No. MC–137, not printed, decided January 18, 1980.
No. 37392*	Elimination of Regulation Over Passes and Free Transportation, not printed, decided August 15, 1980.

RAILROADS

No. 36873*	Definition of Railroad Property, not printed, decided May 9, 1980.
No. 37080	Accounting and Reporting of Railroads' Freight Train Car Repair Costs
No. 37117*	Elimination of Requirement to File Quarterly Report form QL&D, not printed, decided May 8, 1980.
No. 37281	Railroads Performing Depreciation Studies
No. 37346*	Revision of Reporting Requirements for Refrigerator Car Lines and Private Car Lines, not printed, decided April 14, 1980.
No. 37383	Revision of CFR Part 1262 to Eliminate Filing of BV Form 588 by Class I Railroad Companies
Ex Parte No. 230 (Sub-No. 5)	Improvement of TOFC/COFC Regulation
Ex Parte No. 241 (Sub-1)*	Investigation of Adequacy of Railroad Freight Car Ownership, Utilization and Distribution 362 I.C.C. 844 (1980)
Ex Parte No. 252 (Sub-No. 3)*	Use of Incentive Per Diem Funds, not printed, decided August 14, 1980; interim report issued in 362 I.C.C. 723 (1980)
Ex Parte No. 252 (Sub-No. 4)*	Level of Incentive Per Diem Charges, not printed, decided March 3, 1980.
Ex Parte No. 252 (Sub-No. 5)*	Elimination of Incentive Per Diem Charges, not printed, decided August 14, 1980.
Ex Parte No. 274 (Sub-No. 2)	Abandonment of Railroad Lines and Discontinuance of Service
Ex Parte No. 274 (Sub-No. 2A)*	Identification and Handling of Related Rail Abandonments 360 I.C.C. 752 (1980)
Ex Parte No. 274 (Sub-No. 2B)*	Increased Public Participation in Rail Abandonment Proceedings 360 I.C.C. 752 (1980)
Ex Parte No. 274 (Sub-No. 2D)*	System Diagram Map (Changes) 360 I.C.C. 752
Ex Parte No. 274 (Sub-No. 3)*	Abandonment of Railroad Lines—Use of Opportunity Costs 360 I.C.C. 571 (1980)
Ex Parte No. 274 (Sub-No. 4)*	Abandonment Procedures for Bankrupt Railroads 360 I.C.C. 615 (1979)
Ex Parte No. 282 (Sub-No. 3)*	Railroad Consolidation Procedures 363 I.C.C. 200 (1980)

TABLE 2.—Rulemaking proceedings pending and closed during fiscal year 1980—Continued

RAILROADS (continued)	
Ex Parte No. 282 (Sub-No. 4)	Acquisition Procedures for Lines of a Railroad in Reorganization
Ex Parte No. 282 (Sub-No. 5)	Traffic Protective Conditions in Railroad Consolidation Procedures
Ex Parte No. 282 (Sub-No. 6)*	Railroad Consolidation Procedures 363 I.C.C. 241 (1980)
Ex Parte No. 284*	Investigation Into the Need for Defining Reasonable Dispatch (Perishable Commodities) 364 I.C.C. 168 (1980)
Ex Parte No. 289	Remittance of Demurrage Charges by Common Carriers of Property by Rail Railroad Cost Recovery Procedures
Ex Parte No. 290 (Sub-No. 3)	Modification of Rail Carrier General Increase Procedures
Ex Parte No. 293*	Standards for Determining Rail Services Continuing Subsidies, not printed, decided December 7, 1979.
Ex Parte No. 320 (Sub-No. 1)	Rail Market Dominance and Related Considerations
Ex Parte No. 324 (Sub-No. 1)	Standards and Expeditious Procedures for Establishing Railroad Rates Based on Seasonal, Regional, or Peak-Period Demand for Rail Service
Ex Parte No. 326 (Sub-No. 2)*	Applicability of Predominant Article Theory in Publication of Updated Tariffs 364 I.C.C. 149 (1980)
Ex Parte No. 334*	Car Service Compensation—Basic Per Diem Charges—Formula Revision in Accordance with the Railroad Revitalization and Regulatory Reform Act of 1976, not printed, decided May 19, 1980.
Ex Parte No. 334 (Sub-No. 1)	Car Service Compensation—Basic Per Diem Charges—Compensation for Private Cars
Ex Parte No. 334 (Sub-No. 4)*	Order to Show Cause for Granting Railroads Flexibility in Setting Per Diem Levels, not printed, decided August 12, 1980.
Ex Parte No. 344*	Terminal Performance Standards Governing the Transportation of Non Perishable Commodities 364 I.C.C. 166 (1980)
Ex Parte No. 346	Railroad General Exemption Authority
Ex Parte No. 346 (Sub-No. 2)*	Railroad General Exemption Authority—Miscellaneous Commodities, not printed, decided March 21, 1980.
Ex Parte No. 346 (Sub-No. 3)	Railroad General Exemption Authority—Long and Short Haul Transportation
Ex Parte No. 353*	Adequacy of Railroad Revenue (1978 Determination) 362 I.C.C. 794 (1980)
Ex Parte No. 355	Cost Standards for Railroad Rates 362 I.C.C. 799 (1980)
Ex Parte No. 358 (Sub-No. 1)	Change of Policy, Railroad Contract Rates (Standards and Procedures)
Ex Parte No. 361	Exemption of Certain Designated Operators

RAILROADS (continued)

Ex Parte No. 363*	Adequacy of Railroad Revenue (1979 Determination) 362 I.C.C. 344 (1980)
Ex Parte No. 376*	Rerouting of Traffic 364 I.C.C. 175 (1980)
Ex Parte No. 379	Exemption of Government Backed Rail Securities from ICC Jurisdiction
Ex Parte No. 380	Status of Rail Carrier Affiliated Shippers' Agents
Ex Parte No. 381	Adequacy of Railroad Revenue (1980 Determination)

TRUCK AND BUS COMPANIES

No. 37146*	Identification of Rates Filed Under Zone of Rate Freedom by Motor Common Carriers of Property and Freight Forwarders, not printed, decided July 15, 1980.
No. 37269	Adoption of Sampling Procedures to Collect Motor Carrier Commodity Statistics
Ex Parte No. 55 (Sub-No. 24)	Revised Rules of Practice—Non Rail Appeals
Ex Parte No. 55 (Sub-No. 26A)	Revised Protest Standards in Application Proceedings
Ex Parte No. 55 (Sub-No. 36)*	Administrative Appeals From Motor Carrier Board Decisions, not printed, decided August 11, 1980.
Ex Parte No. 55 (Sub-No. 38)	Antitrust and Competition Factors in Motor Carrier Finance Cases
Ex Parte No. 55 (Sub-No. 42)*	Deletion of Dual Operations Policy, not printed, decided June 26, 1980.
Ex Parte No. 55 (Sub. 43)	Rules Governing Applications for Operating Authority
Ex Parte No. 55 (Sub-No. 43A)	Acceptable Forms of Requests for Operating Authority
Ex Parte No. 55 (Sub-No. 44)	Rules Governing Motor Carrier Finance Applications
Ex Parte No. 55 (Sub-No. 45)	Appellate Procedures
Ex Parte No. 55 (Sub-No. 46)*	Policy on Motor Carrier Control Applications Directly Related to Operating Rights Applications 127 M.C.C. 701 (1980)
Ex Parte No. 297 (Sub-No. 3)*	Modified Terms and Conditions for Approval of Collective Ratemaking Agreements Under 49 U.S.C. §10706(b), not printed, decided August 1, 1980.
Ex Parte No. 297 (Sub-No. 4)*	Reopening of Section 5a Application Proceedings to Take Additional Evidence, not printed, decided August 1, 1980.
Ex Parte No. 297 (Sub-No. 5)	Motor Carrier Rate Bureaus—Implementation of P.L. 96-296
Ex Parte No. 311 (Sub-No. 4)	Review of the Motor Carrier Fuel Surcharge Program
Ex Parte No. 342*	Procedures Governing the Processing, Investigation and Disposition of Overcharge, Duplicate Payments or Overcollection Claims 362 I.C.C. 18 (1979)
Ex Parte No. MC-1	Payment of Rates and Charges of Motor Carriers

TABLE 2.—Rulemaking proceedings pending and closed during fiscal year 1980—Continued

TRUCK AND BUS COMPANIES (continued)	
Ex Parte No. MC–19 (Sub-No. 34)*	Household Goods Transportation (Storage-in-Transit Charges), not printed, decided July 17, 1980.
Ex Parte No. MC–37 (Sub-No. 31)*	Commercial Zones and Terminal Areas (Tacoma, Washington) 132 M.C.C. 132 (1980)
Ex Parte No. MC–37 (Sub-No. 32)	Commercial Zone and Terminal Areas (Chicago, Illinois)
Ex Parte No. MC–37 (Sub-No. 33)	Commercial Zones and Terminal Areas (Port of Bremerton)
Ex Parte No. MC–43 (Sub-No. 7)*	Lease and Interchange of Vehicles, not printed, decided February 11, 1980
Ex Parte No. MC–43 (Sub-No. 10)	Payment of Detention Charges
Ex Parte No. MC–64 (Sub-No. 2)*	Special Temporary Authority Procedures, not printed, decided May 8, 1980.
Ex Parte No. MC–64 (Sub-No. 2A)	Special Temporary Authority Procedures
Ex Parte No. MC–64 (Sub-No. 4)*	Temporary Authority for Household Goods Movers, not printed, decided October 18, 1979.
Ex Parte No. MC–67 (Sub-No. 5)*	Temporary Authority Application Procedures, not printed, decided December 31, 1979.
Ex Parte No. MC–67 (Sub.-No. 6)	Elimination of Notification Procedures in the Processing of Emergency Temporary Authority Applications
Ex Parte No. MC–67 (Sub-No. 8)	Rules Governing Temporary and Emergency Temporary Authority
Ex Parte No. MC–67 (Sub-No. 9)*	Revised Temporary Authority Rules, not printed, decided June 27, 1980.
Ex Parte No. MC–71 (Sub-No. 1)*	Owner-Operator Cost and Impact on the Rate Structure, not printed, decided January 24, 1980.
Ex Parte No. MC–75 (Sub-No. 2)*	Agricultural Cooperative Exemption, not printed, decided June 26, 1980.
Ex Parte No. MC–82 (Sub-No. 2)	Procedures Governing Revenue Proceedings of Motor Carriers of Household Goods
Ex Parte No. MC–82 (Sub-No. 3)*	New Procedures in Motor Carrier Revenue Proceedings (Notice Period and Protest Rules) 362 I.C.C. 833 (1980)
Ex Parte No. MC–96 (Sub-No. 2)*	Passenger Broker Entry Control, not printed, decided November 8, 1979.
Ex Parte No. MC–96 (Sub-No. 3)	Property Broker Practices
Ex Parte No. MC–96 (Sub-No. 4)*	Property Broker Entry Control, not printed, decided August 31, 1979
Ex Parte No. MC–96 (Sub-No. 5)*	Passenger Broker "Tauck" Conditions, not printed, decided August 28, 1980.

TRUCK AND BUS COMPANIES (continued)

Ex Parte No. MC–96 (Sub-No. 6)	Multiple Pickups of Town Patrons
Ex Parte No. MC–98*	New Procedures in Motor Carrier Restructuring Proceedings, not printed, decided August 4, 1980.
Ex Parte No. MC–98 (Sub-No. 1)	Investigation of Motor Carrier Classification System.
Ex Parte No. MC–98 (Sub-No. 2)*	Released Rates in Conjunction with a Samll Shipments Tariff 362 I.C.C. 614 (1980)
Ex Parte No. MC–107*	Transportation of Government Traffic 131 M.C.C. 845 (1979)
Ex Parte No. MC–107 (Sub-No. 1)*	Petition for Elimination of Government Traffic Limitations, not printed, decided August 26, 1980.
Ex Parte No. MC–108	Practices of Motor Common Carriers of Mobile Homes
Ex Parte No. MC–109*	Applications Seeking Substitution of Single-Line Service for Existing Joint-Line Operations, not printed, decided March 19, 1979.
Ex Parte No. MC–112*	Petition for Rulemaking—Driveaway Practices, not printed, decided August 1, 1980.
Ex Parte No. MC–117*	Petition for Rulemaking to Permit Incidental Return Movements, not printed, decided August 15, 1980.
Ex Parte No. MC–118 (Sub-No. 1)*	Jurisdiction Over Securities for Companies Obtaining Authority Under MC–118, not printed, decided December 31, 1979.
Ex Parte No. MC–120*	Petition to Relax Entry on the Transportation of Small Shipments Weighing 500 Pounds or Less, not printed, decided August 19, 1980.
Ex Parte No. MC–122*	Intercorporate Hauling, not printed, decided August 6, 1980.
Ex Parte No. MC–122 (Sub-No. 1)	Implementation of Intercorporate Hauling Reform Legislation
Ex Parte No. MC–127*	Special Procedures Governing Return Hauls Applications for Motor Carrier Authority Complementary to Movements of Exempt Agricultural Commodities, not printed, decided September 8, 1980.
Ex Parte No. MC–129	1977–1978 Platform Study of Class I and Class II Motor Common Carriers of General Freight Subject to Accounting Instruction 27
Ex Parte No. MC–131*	Special Limited Authority, not printed, decided August 8, 1980.
Ex Parte No. MC–132*	Intermediate Point Restrictions, not printed, decided August 8, 1980.
Ex Parte No. MC–133	Entry Flexibility—Regular-Route Passenger Service
Ex Parte No. MC–135*	Master Certificates and Permits, not printed, decided June 27, 1980.
Ex Parte No. MC–136*	Direct Routes for Regular Route Movements, not printed, decided August 8, 1980.

TABLE 2.—Rulemaking proceedings pending and closed during fiscal year 1980—Continued

TRUCK AND BUS COMPANIES (continued)	
Ex Parte No. MC–137	No Suspend Zone—Motor Common Carriers of Property
Ex Parte No. MC–138*	Interstate Truck Traffic Through Medina, Ohio, not printed, decided January 18, 1980
Ex Parte No. MC–139*	Removal of Mechanical Refrigeration Restrictions, not printed, decided August 8, 1980
Ex Parte No. MC–141	Policy Statement on Motor Carrier Pooling Applications
Ex Parte No. MC–142*	Elimination of Gateway Restrictions and Circuitous Route Limitations 132 M.C.C. 174 (1980)
Ex Parte No. MC–142 (Sub-1)*	Removal of Restrictions from Authorities of Motor Carriers of Property
Ex Parte No. MC–143*	Owner-Operator Food Transportation 132 M.C.C. 165 (1980)
Ex Parte No. MC–145	Cancellation of Motor Carrier Joint Rates and Through Routes
FREIGHT FORWARDERS	
Ex Parte No. 364 (Sub-No. 1)	Freight Forwarder Contract Rates—Implementation of P.L. 96–296
OTHER MODES	
Ex Parte No. 143	Rules and Regulations Governing the Settlement of Rates and Charges of Common Carriers by Water
Ex Parte No. 170	Rules and Regulations Governing the Settlement of Rates and Charges of Common Carriers of Property by Express

TABLE 3.—Listing of formal significant cases, September 30, 1980

RATES

Number	*Title/Description*	*Statutory Deadline*
1. Ex Parte No. 73 & MC–1	Regulations for Payment of Rates and Charges.	None
2. Ex Parte No. MC–19 (Sub-No. 34)	Household Goods Transportation (Storage-In-Transit Charges)	None
3. Ex Parte No. MC–98	New Procedures in Motor Carrier Restructuring Proceedings.	None
4. Ex Parte No. MC–98 (Sub-No. 1)	Investigation of Motor Carrier Classification System.	None
5. Ex Parte No. MC–98 (Sub-No. 2)	Released Rates—Small Shipments Tariffs	None

RATES

Number	Title/Description	Statutory Deadline
6. Ex Parte No. MC–125	Fare Flexibility for the Bus Industry.	None
7. Ex Parte No. MC–128 (includes I&S M–29772, General Increase, SMCRC, April 1978) (Numerous other related increases are pending).	Revenue Need Standards in Motor Carrier Increase Proceedings.	None
8. Ex Parte No. MC–129	Platform Study of Class I & II Motor Common Carriers of General Freight Subject to Accounting Instruction 27 (validity of new small shipments platforming cost study).	None
9. Ex Parte No. MC–137	No Suspend Zone—Motor Common Carriers of Property.	None
10. Ex Parte No. 230 (Sub-No. 5)	Improvement of TOFC COFC Regulations.	8 22 82
11. Ex Parte No. 241 (Sub-No. 1)	Investigation of Adequacy of Railroad Freight Car Ownership, Car Utilization Distribution, Rules and Practices.	4 13 82
12. Ex Parte No. 252 (Sub-No. 3)	Use of Incentive Per Diem Funds.	4 14 81
13. Ex Parte No. 252 (Sub-No. 5)	Elimination of Incentive Per Diem Charges.	11 30 82
14. Ex Parte No. 270 (Sub-Nos. 9A, B & C)	Investigation of Railroad Freight Rate Structure.	2 5 81
15. Ex Parte No. 290 (Sub-No. 2)	Railroad Cost Recovery Procedures.	4 28 83
16. Ex Parte No. 297 (Sub-No. 3)	Modified Terms and Conditions for Approval of Collective Ratemaking Agreements Under Section 5a of the Interstate Commerce Act.	None
17. Ex Parte No. 297 (Sub-No. 4)	Reopening of Section 5a Application Proceedings to Take Additional Evidence. (Individual review of all non-rail agreements).	None
18. Ex Parte No. 297 (Sub-No. 5)	Motor Carrier Rate Bureaus—Implementation of P. L. 96–296.	None
19. Ex Parte No. 311 (Sub-No. 4)	Review of the Motor Carrier Fuel Surcharge Program.	None
20. Ex Parte No. 320 (Sub-No. 1)	Market Dominance Standards and Procedures.	1 9 83
21. Ex Parte No. 324 (Sub-No. 1)	Standards and Expeditious Procedures for Establishing Railroad Rates Based on Seasonal, Regional or Peak-Period Demand for Rail Service.	2 19 83

TABLE 3.—Listing of formal significant cases, September 30, 1980—Continued

RATES

Number	Title Description	Statutory Deadline
22. Ex Parte No. 327 (Sub-No. 1)	Capital Incentive Rates. (Changes to Regulations)	4-21-81
23. Ex Parte No. 334	Basic Per Diem Charges	None
24. Ex Parte No. 346 (Sub-No. 2)	Rail General Exemption Authority—Miscellaneous Commodities	3-22-82
25. Ex Parte No. 346 (Sub-No. 3)	Rail General Exemption Authority—Long and Short Haul Transportation	12-9-83
26. Ex Parte No. 347	Western Coal Investigation—Guidelines for Railroad Rate Structure	5-10-81
27. Ex Parte No. 354	Additional Charges of Motor Carriers and Freight Forwarders	None
28. Ex Parte No. 355	Cost Standards for Railroad Rates	9-24-81
29. Ex Parte No. 358 (Sub-No. 1)	Railroad Contract Rates—Standards and Procedures	4-25-83
30. Ex Parte No. 367	Tariff Integrity Board	None
31. Ex Parte No. 370	Tariff Improvement	10-19-82
32. Ex Parte No. 372	Notice to Shippers of Freight Refused or Unclaimed at Destinations	None
33. Ex Parte No. 381	Adequacy of Railroad Revenue (1980 Determination)	4-29-81
34. S5R2, S5R3, S5R6	Western, Eastern and Southern Rate Bureau Agreement	3-1-81
35. NO. 37063 and (Sub-Nos. 1-4)	Increased Rates on Coal, L & N RR	None

OPERATING RIGHTS

Number	Title Description	Statutory Deadline
1. Ex Parte No. MC-19 (Sub-No. 23)	Estimating Practices of Household Goods Carriers	None
2. Ex Parte No. MC-64 (Sub-No. 2A)	Special Temporary Authority Procedures	None
3. Ex Parte No. MC-96 (Sub-No. 3)	Property Brokers Practices	None
4. Ex Parte No. MC-65 (Sub-No. 6)	Petition to Expand Passenger Motor Carrier Superhighway and Deviation Rules	None

OPERATING RIGHTS

Number	Title Description	Statutory Deadline
5. Ex Parte No. MC–117	Motor Carrier of Commodities in Bulk—Petitions to Institute a Rulemaking Proceeding to Allow Incidental Return Movements in Connection with Operations Under Certified Authorities	None
6. Ex Parte No. MC–120	Petition to Relax Entry of the Transportation of Small Shipments Weighing 500 Pounds or Less (Filed by Trailways)	None
7. Ex Parte No. MC–73 (Sub-No. 1)	Interchange Policies at International Boundaries	None
8. Ex Parte No. MC–127	Special Procedures Governing Applications for Motor Carrier Authority Complementary to Movement of Exempt Agricultural Commodities	None
9. Ex Parte No. MC–131	Special Limited Authority of Backhaul Corresponding to Authority Currently Held and to Mix Agricultural Commodities with Regulated Commodities	None
10. Ex Parte No. MC–132	Intermediate Point Restrictions for Regular Movements	None
11. Ex Parte No. MC–133	Petition for Rulemaking on Entry Flexibility for Regular Route Passenger Carriers (Filed by Trailways)	None
12. Ex Parte No. MC–67 (Sub-No. 6)	Elimination of Notification of ETA Applications	None
13. Ex Parte No. MC–122	Intercorporate Hauling	None
14. Ex Parte No. MC–136	Direct Routes for Regular Route Movements	None
15. Ex Parte No. 366	Legal Assistance Referral Service	None
16. FF–C–75	Status of Forwarder-Affiliated Consolidators	None
17. Ex Parte No. MC–139	Removal of Mechanical Refrigeration Restrictions	None
18. Ex Parte No. MC–134	Interim Operations	None
19. Ex Parte No. 380	Status of Rail Carrier Affiliated Shippers' Agents	None
20. Ex Parte No. MC–95 (Sub-No. 3)	Regulations Governing the Adequacy of Intercity Motor Common Carrier Passenger Service	None
21. Ex Parte No. 55 (Sub-No. 43)	Rules Governing Applications for Operating Authority	None
22. Ex Parte No. 55 (Sub-No. 43A)	Acceptable Forms of Requests for Operating Authority	None

TABLE 3.—Listing of formal significant cases, September 30, 1980—Continued

OPERATING RIGHTS

Number	Title/Description	Statutory Deadline
23. Ex Parte No. MC–122 (Sub-No. 1)	Implementation of Intercorporate Hauling Reform Legislation	None
24. Ex Parte No. MC–142	Elimination of Gateway Restrictions and Circuitous Route Limitations	12/29/80
25. Ex Parte No. MC–142 (Sub-No. 1)	Removal of Restrictions from Authorities of Motor Carriers of Property	12/29/80
26. Ex Parte No. MC–67 (Sub-No. 8)	Rules Governing Temporary Authority and Emergency Temporary Authority	None
27. Ex Parte No. MC–143	Owner-Operator Food Transportation	None
28. Ex Parte No. 55 (Sub-No. 45)	Appellate Procedures	None

FINANCE

Number	Title/Description	Statutory Deadline
1. Ex Parte No. 55 (Sub-No. 38)	Antitrust and Competition Factors in Motor Carrier Finance Cases	None
2. Ex Parte No. 55 (Sub-No. 44)	Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349.	None
3. Ex Parte No. 282 (Sub-No. 3)	Railroad Consolidation Procedures	None
4. Ex Parte No. 282 (Sub-No. 5)	Policy Concerning Traffic Protective Conditions In Railroad Consolidation Proceedings.	None
5. Ex Parte No. 282 (Sub-No. 6)	Railroad Consolidation Procedures, General Policy Statement.	None
6. F. D. 21510 (Sub-No. 2)	Norfolk and Western Railway Company and New York, Chicago & St. Louis Railroad Company Merger.	None
7. F. D. 28905 (Sub-No. 1)	CSX Corporation—Control—Chessie Systems, Inc., and Seaboard Cost Line Industries, Inc.	10/24/80
8. F. D. 29328, embraces F. D. 29303 (Sub-No. 1), F. D. 29370, and F. D. 29402	Burlington Northern, Inc.—Purchase (Portion)—Chicago, Milwaukee, St. Paul, and Pacific Railroad Company (Richard B. Ogilvie, Trustee).	Court Imposed 8/21/80

TABLE 4.—Formal cases opened and closed during fiscal year 1980 as compared to prior fiscal years

	Fiscal Year 1978	*Fiscal Year 1979*	*Fiscal Year 1980*
Pending beginning of year	7,607	11,237	18,135
Openings during year	15,280	21,661	21,302
Closings during year	11,650	14,763	26,520
Pending end of year	11,237	18,135	12,917

TABLE 5.—Informal Proceedings

	Fiscal Year 1978	*Fiscal Year 1979*	*Fiscal Year 1980*
Applications for motor temporary authority:*			
Filed	18,836	13,924	5,053
Disposed of	18,632	7,762	11,338
Pending at end of year	345	7,962	—
Petitions in application for motor carrier temporary authority:			
Filed	1,651	444	1,474
Disposed of	1,714	235	1,968
Pending at end of year	127	309	117
Transfer of operating authority if under $300,000 combined revenues (motor):**			
Filed	561	445	475
Disposed of	514	382	402
Pending at end of year	180	363	271
Applications to deviate from regular routes:			
Filed	173	166	141
Disposed of	188	161	147
Pending at end of year	13	18	21
Petitions in deviation filings:			
Filed	9	8	3
Disposed of	12	8	2
Pending at end of year	1	1	1

*Effective February 4, 1980, the processing of applications for motor temporary authority was transferred to the Regional Offices. The 1980 figures reflect applications filed from the beginning of the fiscal year to that date. The dispositions figure involves the entire fiscal year, leaving no pending applications.

**Effective July 1, 1980, the total combined revenues requirement was increased to $2,000,000.

TABLE 6.—Certificates of convenience and necessity issued for abandonment, construction, acquisition, and operation of lines of a railroad under Sec. 1(18) of the Interstate Commerce Act, as amended

	Fiscal Year 1978		Fiscal Year 1979		Fiscal Year 1980	
	Applications	Miles	Applications	Miles	Applications	Miles
I. Abandonment applications filed	127	3,378.70	113	4,419.24	130	4,784.56
Certificate of abandonment:						
Granted	113	2,416.52	123	2,873.36	105	2,321.46
Denied	4	110.45	12	798.50	3	96.55
Dismissed	9	360.38	3	72.89	33*	5,259.27
Abandonment permitted since effective date of Act		73,701.5		76,574.9		78,896.4
II. Construction applications filed	3	2.0	1	56.08	3	19.74
Granted	0	—	0	—	7	957
Denied	0	—	0	—	1	75
Dismissed	0	—	0	—	0	—
III. Acquisition and operation applications filed	9	387.86	11	271.78	3	46.22
Granted	1	9.32	14	565.54	2	10.84
Denied	0	—	0	—	0	—
Dismissed	2	62.53	3	222.29	0	—

*27 of the 33 abandonments (5122 miles) in this category were filed by the Milwaukee Road. The Milwaukee Road Restructuring Act transferred from the Commission to the bankruptcy court final authority over the abandonment, sale and transfer of the lines of presently bankrupt railroads.

TABLE 7.—Tariffs and Schedules, fiscal year 1980

	Received	*Criticized*	*Rejected*
Freight:			
Common Carrier, Tariffs:			
Rail	63,113	368	92
Rail Contract	68	0	0
Motor	393,149	3,172	2,488
Water	14,705	35	45
Pipeline	0	0	0
Freight Forwarder	17,457	157	215
International Ocean-Land Intermodal	77,238	53	292
Total	565,662	3,785	3,132
Contract Carrier, Schedules:			
Motor	33,894	304	376
Water	57	0	0
Total	33,951	304	376
Total Freight	599,613	4,089	3,508
Passenger Tariffs:			
Common Carrier:			
Rail	222	1	1
Motor	5,468	54	36
Water	18		
Total	5,708	55	37
Contract Carrier, Motor	3	0	0
Express Tariffs:			
Rail	5	0	0
Motor	29		
Total	34	0	0
Total Passenger & Express	5,745	0	0
GRAND TOTAL	605,358	4,144	3,545

NOTES:

Also filed were 35,457 quotations or tenders established under Section 10721 and 10722 of the Revised Interstate Commerce Act for the transportation of property or persons at reduced rates or fares.

A total of 3,683 copies of contracts and amendments to existing contracts between motor carriers and shippers were filed, while 13,527 contracts and amendments between freight forwarders and motor common carriers were filed pursuant to Section 10766 of the revised act.

Processed applications requesting permission to change rates or other provisions on less than statutory notice, or to depart from the tariff publishing rules, numbered 5,854.

TABLE 8.—Action taken on applications filed under provisions of 49 USC 10726 (formerly Section 4 of the ICA)

Fiscal Year 1980			
Applications:		Applications:	
On hand beginning of year	9	Disposed of during year:	
Received during a year	109	Granted	106
		Denied	2
		Withdrawn	0
		Dismissed	0
TOTAL	118	**TOTAL**	108
		Pending at end of year	10

NOTE: Petitions for reconsideration of Board's action–1; applications processed against granting of relief–0; relief withheld pending hearings in applications–0.

TABLE 9.—Released Rates Board

	Number	Petitions for Admin. Review
FY 1980		
Applications:		
On hand beginning of year	3	1
Received during the year	47	3
TOTAL	50	4
Disposed of during the year:		
Granted	41	1
Denied	1	3
Closed	6	0
Withdrawn	1	0
TOTAL	49	4
Pending at end of year	1	0

TABLE 10.—Action taken on proposals (protested and non-protested) considered for suspension and/or investigation

	Suspensions—Fiscal Year 1980					
	Rail	Motor	Water	Fght. Fwdr.	Total No.	Per-cent
Suspended in full	23	163	0	1	187	26.0
Suspended in part	6	12	0	0	18	2.5
*Not Suspended or Investigated	138	196	20	1	355	49.3
*Not Suspended but Investigated	34	4	0	0	38	5.3
#Otherwise disposed of	45	68	5	4	122	16.9
	246	443	25	6	720	100.0

*—Permitted to become effective
#—Schedules cancelled or rejected; protests withdrawn or filed too late

TABLE 11.—Informal Rate Case Branch (Bureau of Traffic—FY 1980)

Rate Cases General:	
On Hand beginning of year	199
Received during year	5045
Disposed of during year	5093
Pending at end of year	151
Informal Complaints:	
On hand beginning of year	267
Received during year	114
Disposed of during year	225
Pending at end of year	156
Decisions—Statement of Claimed Damages (49 CFR 1100.95)	
On hand beginning of year	6
Received during year	12
Disposed of during year	16
Pending at end of year	2
Special Dockets Board:	
On hand beginning of year	223
Received during the year	495
Disposed of during year	518
Pending at end of year	200

TABLE 12.—ICC Unit of the National Defense Executive Reserve

	Fiscal year 1978	Fiscal Year 1979	Fiscal Year 1980
NDER group	On Roll	On Roll	On Roll
Rail	569	513	464
Motor	189	179	104
Water	61	151	32

TABLE 13.—Car supply—Cars installed, retired, and ordered, Class I railroads

	Fiscal Year			
	1965	1970	1975	1980
Cars Installed:				
Box	20,165	24,243	13,060	7,646
Refrigerator	6,631	6,541	2,180	126
Gondola	3,658	6,888	4,928	5,456
Hopper	22,333	10,999	10,075	9,656
Covered Hopper	9,686	5,887	7,143	9,002
Flat	4,149	2,875	2,037	1,036
Other	1,204	379	240	970
Total Cars	67,826	57,812	39,663	33,892
Cars Retired:				
Box	33,123	26,682	25,112	35,112
Refrigerator	2,494	5,668	1,260	2,882
Gondola	9,668	11,066	7,830	8,883
Hopper	28,918	21,366	1,572	18,796
Covered Hopper	255	2,178	3,328	3,114
Flat	1,789	1,028	5,965	3,451
Other	2,414	4,175	1,626	2,338
Total Cars	78,661	72,163	72,223	74,576
Cars Ordered:				
Box	22,354	9,232	9,171	3,911
Refrigerator	10,114	3,890	350	46
Gondola	5,508	6,584	7,251	5,302
Hopper	10,260	11,883	20,279	6,289
Covered Hopper	13,911	8,709	4,164	7,652
Flat	9,543	6,299	3,571	512
Other	9,160	8,453	6,628	320
Total Cars	80,850	55,050	51,414	24,032

TABLE 14.—Ownership, Serviceable Ownership, and Turnaround Time, Class I railroads

	Fiscal Year			
	1965	1970	1975	1980
Ownership:				
Plain Box	495,107	380,227	315,006	187,578
Equipped Box	95,497	163,295	171,002	166,888
Total Box	590,604	543,522	486,008	354,466
Refrigerators	95,505	100,502	83,951	62,952
Gondolas	220,854	190,356	176,154	151,709
Hoppers	432,442	392,015	344,113	317,805
Covered Hoppers	87,271	128,577	156,198	169,953
Flat	59,628	72,048	97,948	96,667
Other	61,003	51,365	37,464	26,938
Total Cars	1,547,307	1,478,385	1,381,836	1,180,490
Serviceable Cars:				
Plain Box	416,369	349,544	280,751	164,170
Equipped Box	92,314	155,287	152,503	145,037
Total Box	508,683	504,831	433,254	309,207
Refrigerators	92,099	96,741	77,585	57,850
Gondolas	204,447	177,861	163,075	136,375
Hoppers	409,662	375,884	327,141	297,400
Covered Hoppers	85,088	124,605	147,144	159,753
Flat	57,017	67,764	91,709	89,861
Other	58,214	49,214	35,698	25,412
Total Cars	1,415,210	1,396,900	1,275,606	1,075,858
	Calendar Year			
	1964	1969	1974	1979
Turnaround Time—Days:				
Box	20.1	21.7	25	31.2
Refrigerators	34.4	33.6	34	35.9
Gondolas	19.1	19.3	18.3	21.1
Hoppers	14.5	13.9	13.3	14.3
Covered Hoppers	20.8	20.7	22.4	25.5
Flat	12	12.4	13.7	15
Average All Cars	18.4	18.4	19.6	22.1

TABLE 15.—Extensions of time limits—Rail proceedings, fiscal year 1980

Proceeding	*Type of Proceeding*	*Notification of Extension*	*Reason and Duration*
I&S 9222 *Conrail Surcharge on Pulpboard*	Investigation	December 5, 1979	A three-month extension was required because of the complex legal and policy issues involved.
Ex Parte No. 311 (Sub-No. 1C) *Expedited Procedures for Recovery of Fuel Cost—Mechanical Protective Services*	Investigation	March 20, 1980	Through inadvertent error, no investigation was initiated following the Commission's August 1979 vote to institute an investigation. A three-month extension was required.
No. 37315 *Coal, Colstrip, Kuehn, and Decker, MT, to Superior, WI* and No. 37316 *Rates on Coal, Decker and Kleenburn to Illinois and Indiana*	Investigation Investigation	May 5, 1980	A three-month extension was required because of the legal and policy issues presented.
No. 37299 *Grain, Kansas City, MO-KS, to Texas Ports*	Investigation	May 28, 1980	A three-month extension was required because one of the issues in this proceeding was the applicability of outstanding orders issued in two other cases; those cases had been reopened for further review.
No. 37301 *Restricted Transit, Trans-Continental Shipments of Oils*	Investigation	July 14, 1980	A three-month extension was required to analyze the effect the cancellations of transit provisions would have on the movement of cooking oils and on energy consumption.
No. 37304 *Public Service Co. of Indiana, Inc., (Coal) v. Consolidated Rail Corporation*	Complaint	July 17, 1980	A three-month extension was required to resolve a dispute as to the proper scope of discovery in this highly complex coal rates proceeding.
Finance Docket 28611, *Southern Pacific Passenger Discontinuance*	Rail Discontinuance	—	Because of procedural delays in the hearing process, a final decision could not be issued by the statutory deadline.

APPENDIX C

PUBLICATIONS

FINANCIAL AND TRAFFIC STATISTICS

Annual

Transport Statistics in the United States.

Detailed data on traffic operations, equipment, finances, and employment for carriers subject to the Interstate Commerce Act. Available by releases:

Part 1. Railroads
Part 2. Motor Carriers
Part 3. Freight Forwarders
Part 4. Private Car Lines
Part 5. Carriers by Water

Selected Statistics of Class II Motor Carriers of Property.

Selected Statistics of Class III Motor Carriers of Property.

A—300—Wage Statistics of Class I Railroads in the United States—Calendar Year. Number of employees, service hours and compensation by occupation: Professional, clerical, and general; maintenance of way and structures; maintenance of equipment and stores; etc.

Quarterly

Large Class I Motor Carriers of Passengers Selected Earnings Data. Operating revenues, net income, revenue passengers carried, operating ratio and rate of return.

Large Class I Household Goods Carriers Selected Earnings Data. Operating revenues, net income, revenue tons hauled, operating ratio and rate of return.

Large Class I Motor Carriers of Property Selected Earnings Data. Operating revenues, net income, revenue tons hauled, operating ratio and rate of return.

Class I Line-Haul Railroads Selected Earnings Data. Railway operating revenues, net railway operating income,ordinary income, net income and rate of return.

Monthly

M—350—Report of Railroad Employment, Class I Line-Haul Railroads. Number of employees at middle of month, group totals.

CONSUMER PUBLICATIONS

Weekly Review

The Weekly Review is a comprehensive review of significant ICC actions. Copies can be obtained on a regular basis by writing the Office of Communications, ICC, Washington, D.C. 20423.

Calendar

Summary of Information For Shippers of Household Goods

This booklet explains consumer rights when moving household goods across state lines. A "moving kit" has been compiled by the ICC which includes this publication and a public advisory on lost or damaged household goods. Summary information from performance reports filed with ICC by the 20 largest moving companies and a summary of consumer complaints received by the Commission about those companies is also included in the "kit."

Financial Management Information Package

Information useful to small businesses in the surface transportation community.

Public Advisories

#1 *Owner Operator*—Rights, Responsibilities and Remedies

#4 *Lost or Damaged Household Goods*

#8 *Lease-Purchase Plans*

APPENDIX D

Appropriations and Employment

The following statement shows average full time employment and total appropriations for the Fiscal Years 1950 to 1981 for activities included under the current appropriation title "Salaries and Expenses."

Year	Appropriation	Average employment	Year	Appropriation	Average employment
			1966	27,540,000	2,376
1950	$11,416,700	2,161	1967	27,169,000	1,929
1951	11,408,200	2,072	1968	23,846,000	1,899
1952	11,264,035	1,890	1969	24,664,000	1,808
1953	11,003,500	1,849	1970	27,742,660	1,802
1954	11,284,000	1,838	1971	28,442,000	1,731
1955	11,679,655	1,859	1972	30,640,000	1,676
1956	12,896,000	1,902	1973	33,720,000	1,765
1957	14,879,696	2,090	1974	40,681,000	1,874
1958	17,412,375	2,238	1975	44,970,000	1,986
1959	18,747,800	2,268	1976	52,455,000	2,034
1960	19,650,000	2,344	TQ	12,290,000	2,113
1961	21,451,500	2,386	1977	60,786,000	2,084
1962	22,075,000	2,400	1978	65,575,000	2,047
1963	3,502,800	2,413	1979	70,400,000	2,040
1964	24,670,000	2,408	1980	79,063,000	1,946
1965	26,715,000	2,339	1981	82,400,000	1,910

Fiscal Year 1980 Appropriations

An Act (Public Law 96–131 approved November 30, 1979) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1980, and for other purposes including the following:

Salaries and expenses: For necessary expenses of the Interstate Commerce Commission, including services as authorized by 5 U.S.C. 3109, $76,699,000, Provided: That joint board members and cooperating state commissioners may use Government transportation requests when traveling in connection with their official duties as such.

Directed Rail Service: For payments for rail service to railroads directed to provide emergency rail service over the properties of other carriers in accordance with 49 U.S.C. 11125, $76,000,000 to remain available until expended: Provided, That not to exceed $900,000 of this appropriation shall be available for necessary independent auditing expenses incurred in the administration of the directed rail service program: Provided further, That none of the funds provided under this Act shall be available for the execution of programs, the obligations for which can reasonably be expected to be in excess of $80,000,000 for directed rail service under 49 U.S.C. 11125.

Supplemental Appropriation

An Act (Public Law 96–304 approved July 8, 1980) provided supplemental appropriations of $2,700,000 for salaries and expenses.

Status of Appropriations

Status of Fiscal Year 1980 salaries and expenses account as of September 30 1980:

Total appropriation	$79,063,000
Total obligations	77,895,000
Unobligated balance lapsing	$1,168,000

Status of Directed Rail Service account as of September 30, 1980:

Unobligated balance available from prior appropriation	$14,590,000
Total FY 80 Appropriation	76,000,000
Transfer to DOT (P.L. 96–101) Milwaukee Railroad Restructuring Act	(10,000,000)
Transfer from DOT (P.L. 96–254) Rock Island Railroad Transition and Employee Assistance Act	1,000,000
Total obligations	(78,473,000)
Unobligated balance available	$3,117,000

Receipts

Status of receipt accounts as of September 30, 1980:

Registration and filing fees	$9,195,000
Fines, penalties and forfeitures	1,572,000
Service charges for allotments of pay for savings account	2,000
Charges for administrative services	35,000
Recoveries from railroad loan guarantees	2,202,000
Miscellaneous recoveries and refunds	11,000
Total Receipts	$13,017,000

APPENDIX E

Carrier Financial and Statistical Data

TABLE 1.—Carriers reporting to the Commission

	Number
Carriers subject to Uniform Systems of Accounts and required to file annual and periodic reports as of September 30, 1980:	
Railroads, class I[1]	42
Railroads, class II[2]	21
Railroad lessor companies	95
Motor carriers, class I passenger[3]	61
Motor carriers, class I property[4]	947
Motor carriers, class II property[5]	2,164
Water carriers	82
Maritime carriers	6
Freight forwarders	156
Protective service companies	7
Rate bureaus and organizations, class I	40
TOTAL	3,621
Carriers and organizations filing annual reports but not subject to prescribed Uniform Systems of Accounts as of September 30, 1980:	
Railroads, class III	267
Railroad switching and terminal companies, class III	153
Stockyard companies	16
Carlines (companies which furnish cars for use on lines of railroads)	157
Classes II and III motor carriers of passengers	1,222
Classes I and II motor carriers of property relieved from reporting requirements of classes I or II	324
Class III motor carriers of property	14,610
Water carriers (less than $100,000 gross revenue)	100
Freight forwarders (less than $100,000 gross revenue)	37
Holding companies (rail)	6
Holding companies (motor)	62
Rate bureaus and organizations (less than $100,000 gross revenue)	37
TOTAL	16,991
GRAND TOTAL	20,612

[1]Railroad companies having annual operating revenues of $50,000,000 or more.
[2]Railroad companies having annual operating revenues less than $50,000,000 but in excess of $10,000,000.
[3]Motor carriers having annual operating revenues in excess of $3,000,000.
[4]Motor carriers having annual operating revenues in excess of $5,000,000.
[5]Motor carriers having annual operating revenues less than $5,000,000 but in excess of $1,000,000.
NOTE: Excludes one coal slurry pipeline company under the jurisdiction of the Commission that has been relieved from filing reports.

TABLE 2.—Recapitulation of preliminary 1979 operating revenues, net investment and taxes *(dollars in thousands)*

Kind of carriers	Number of carriers represented[1]	Operating revenues	Net investment	Taxes	
				Income taxes on ordinary income[2]	All other taxes
Railroads—class I line haul	40	$25,219,115	$30,962,208	$355,485	$1,847,321
Motor carriers of property—class I intercity	872	29,858,069	6,701,090	327,899	629,849
Motor carriers of passengers—class I intercity	44	1,195,896	471,646	16,081	68,143
Water carriers by inland and coastal waterways—class A and class B	66	772,420	501,640	9,109	10,555
TOTAL	1,022	57,045,500	38,636,584	708,574	2,555,868
	Percentage distributions				
Railroads—class I line haul	3.9	44.2	80.1	50.1	72.3
Motor carriers of property—class I intercity	85.3	52.3	17.4	46.3	24.6
Motor carriers of passengers—class I intercity	4.3	2.1	1.2	2.3	2.7
Water carriers by inland and coastal waterways—class A and class B	6.5	1.4	1.3	1.3	0.4
TOTAL	100.0	100.0	100.0	100.0	100.0

[1]Carriers for which preliminary financial and statistical data were available.
[2]Federal income taxes and provision for deferred taxes only for railroads; all other carriers include Federal and State income taxes, and provision for deferred taxes.

TABLE 3.—Class I line-haul railroads and their lessor subsidiaries shareholders' equity, long term debt, and dividends *(dollars in thousands)*

Item	1977	1978	1979[1]
1. Shareholder' equity:			
a. Capital stock	$4,739,884	$4,324,266	$4,452,980
b. Capital surplus	5,241,529	4,273,524	5,377,850
c. Retained income	6,492,187	8,019,759	8,400,494
d. Total equity	16,473,600	16,617,549	18,231,324
2. Long-term debt	12,292,342	12,025,457	12,454,142
3. Total equity and debt	28,765,942	28,643,006	30,685,466
4. Ratio of debt to equity (percent)	42.73	41.98	40.59
5. Amount of dividends:[2]			
a. Cash	$590,660	$512,791	$584,290
b. Stock			0

[1]Preliminary.
[2]Includes figures for lessors and operating railroads without excluding duplications on account of intercorporate payments for 1977 and 1978. Figures for 1979 are for Class I line haul railroads only and includes duplications on account of intercorporate payments.

TABLE 4.—Class I line-haul railroads, condensed income statement, financial ratios, and employee data *(dollars in thousands)*

Item	1977	1978	1979[1]
1. Number of carriers represented	58	40	40
CONDENSED INCOME STATEMENT			
2. Operating revenues:			
a. Freight	$18,892,437	$20,236,066	$23,447,418
b. Passenger	608,991	355,592	381,827
c. Total operating revenues	20,429,929	21,721,332	25,219,115
3. Total operating expenses	17,132,826	21,043,143	23,994,154
4. Railway tax accruals	2,152,854[2]	2,141,742	2,202,806
5. Rent income and rents payable—Net	1,315,014	—	—
6. Net railway operating income	−170,765	427,452	837,232
7. Ordinary income	227,139	306,786	938,254
8. Extraordinary items—Net[3]	13,151	−55,739	29,216
9. Net income	213,988	251,047	967,470
NET INVESTMENT AND EQUITY			
10. Net investment in transportation property and equipment plus working capital	29,455,848	29,418,800	30,962,208
11. Shareholders' equity	15,920,876	16,182,792	17,796,132
FINANCIAL RATIOS (PERCENT)			
12. Operating ratio (L. 3 ÷ L. 2c)	83.86	96.88	95.14
13. Return on net investment (L. 6 ÷ L. 10)	—	1.45	2.70
14. Return on equity:			
a. Ordinary income basis (L. 7 ÷ L. 11)	—	1.90	5.27
b. Net income basis (L. 9 ÷ L. 11)	—	1.55	5.44
EMPLOYEE DATA			
15. Average number	501,390	471,519	482,962
16. Compensation:			
a. Total	$9,223,771	$9,565,804	$10,903,887
b. Per hour paid for	$7.635	$8.316	$9.224

[1]Preliminary. Effective Jan. 1, 1978, the Uniform System of Accounts was revised with the following effects:

(a) Revenue qualifications of a class I railroad was increased from annual operating revenues of $10,000,000 or more to $50,000,000 or more.

(b) Line item 4 only includes current and deferred income taxes. Payroll taxes, property taxes, and all other taxes are included in line item 3.

(c) Rent income and rents payable under the 1978 and 1979 reporting requirements are netted and included in line item 3.

(d) Operating ratios for 1978 and 1979 are not comparable with 1977 because of the revisions to the Uniform System of Accounts. If 1977 amounts were restated, the operating ratio would be approximately 96.75.

[2]Includes payroll taxes, provision for deferred taxes, and all other taxes, except income taxes on extraordinary items. Income taxes on ordinary income included for 1977 is $60,161,000.

[3]Includes income taxes on extraordinary items and discontinued operations and accounting changes.

NOTE: Data for 1978 and 1979 excludes National Railroad Passenger Corp. which had total operating revenues of $321,187,000 and $398,419,000 and net income of −$22,967,000 and −$20,911,000, respectively.

TABLE 5.—Class I line-haul railroads current assets and current liabilities as of Dec. 31, 1978 and 1979 *(dollars in thousands)*

Item	1978 amount	Percent of change	1979[1] amount	Percent of change
Total current assets	$6,873,502	−13.0	$7,779,567	+13.2
Cash and temporary investments	1,566,594	0	1,443,043	−7.9
Materials and supplies	1,260,389	−2.3	1,584,849	+25.7
Total current liabilities	6,270,817	+33.1	7,224,519	+15.2
Net working capital:				
Including materials and supplies	602,685	−56.1	555,048	−7.9
Excluding materials and supplies	−657,704	—	−1,029,801	—
Ratios:				
Current assets to current liabilities:				
Including materials and supplies	1.10		1.08	
Excluding materials and supplies	.90		.86	
Cash and temporary cash investments to current liabilities	.25		.20	

[1]Preliminary.

TABLE 6.—Refrigerator carlines owned or controlled by railroads condensed income statement, financial ratios, and employee data *(dollars in thousands)*

Item	1977	1978	1979[1]
1. Number of companies represented	6	7	7
CONDENSED INCOME STATEMENT			
2. Operating revenues	$169,903	$164,704	$182,457
3. Operating expenses	121,445	122,311	130,979
4. Income taxes	1,083	3,567	3,141
5. Carline operating revenue	3,702	337	8,360
6. Ordinary income	−2,083	−3,670	3,491
7. Extraordinary items—net[2]		55	1,012
8. Net income	−2,083	−3,725	4,503
NET INVESTMENT AND EQUITY			
9. Net investment in cars and protective service property plus working capital	305,231	292,521	280,899
10. Shareholders' equity	153,503	155,477	153,980
FINANCIAL RATIOS (PERCENT)			
11. Operation (L. 3 ÷ L. 2)	71.48	74.26	71.79
12. Return on net investment (L. 5 ÷ L. 4 ÷ L. 9)	1.57	1.10	4.09
13. Return on equity (L. 8 ÷ L. 10)		—	2.92
EMPLOYEE DATA			
14. Average number	2,900	2,960	3,012
15. Compensation	$47,024	$50,143	$58,965

[1]Preliminary.

[2]Includes income taxes on extraordinary items and discontinued operations and accounting changes.

TABLE 7.—Nonrailroad controlled private car-owners,[1] revenues and selected statistics *(dollars in thousands)*

Item	1977	1978	1979
1. Revenue	$1,019,470	$1,077,200	$1,187,007
2. Miles made by owned cars	7,466,908	7,223,940	7,624,619
3. Cars owned at close of year:			
a. Refrigerator	9,511	9,365	6,525
b. Petroleum tank	115,695	120,640	104,772
c. Other tank	43,842	39,676	43,941
d. Other cars	196,270	159,095	186,726
e. Total	365,318	328,776	341,964

[1]Confined to owners of 10 or more cars. Does not include railroad owned or controlled carlines.

TABLE 8.—Class I intercity motor carriers of property condensed income statement, financial ratios, and employee data *(dollars in thousands)*

Item	1977	1978	1979[1]
1. Number of carriers represented	835	884	872
CONDENSED INCOME STATEMENT			
2. Operating Revenues:			
a. Freight-intercity-common carrier	$19,623,109	$24,008,778	$26,637,903
b. Freight-intercity-contract carrier	638,094	883,985	938,708
c. Freight-local cartage	815,614	293,196	337,111
d. Intercity transportation for other motor carriers	154,578	253,971	246,117
e. Other operating revenue	1,288,469	1,414,620	1,698,230
f. Total operating revenues	22,519,864	26,854,550	29,858,069
3. Operating expenses	21,337,081	25,491,049	28,788,467
4. Lease of distinct operating unit—net	−1,512	−2,070	437
5. Net carrier operating income	1,181,271	1,361,431	1,070,039
6. Other income and miscellaneous deductions from income—net	−84,955	−142,132	−200,071
7. Income taxes on ordinary income[2]	443,974	473,762	327,899
8. Ordinary income	652,342	745,537	542,069
9. Extraordinary items—net[3]	34,079	58,787	40,350
10. Net income	686,421	804,324	582,419
NET INVESTMENT AND EQUITY			
11. Net investment in carrier operating property and equipment, plus working capital	4,892,951	5,953,262	6,701,090
12. Shareholders' and proprietors' equity	4,192,173	4,883,175	4,971,073
FINANCIAL RATIOS (PERCENT)			
13. Operating ratio (L. 3 ÷ L. 2f)	94.75	94.92	96.42
14. Return on net investment (L. 5 ÷ L. 11)	24.14	22.87	15.97
15. Return on equity (L. 10 ÷ L. 12)	16.37	16.47	11.72
EMPLOYEE DATA			
16. Average number	473,073	557,118	554,811
17. Compensation	$9,359,652	$11,039,819	$11,983,623

[1]Preliminary.
[2]Does not include taxes applicable to sole proprietorships, partnerships, and corporations that have elected to be taxed under sec. 1372(a) of the Internal Revenue Code; also does not include income taxes on extraordinary items. Includes provision for deferred taxes.
[3]Includes income taxes on extraordinary items and discontinued operations and accounting changes.

TABLE 9.—Class I intercity motor carriers of passengers condensed income statement, financial ratios, and employee data *(dollars in thousands)*

Item	1977	1978	1979[1]
1. Number of carriers represented	43	43	44
CONDENSED INCOME STATEMENT			
2. Operating Revenues:			
a. Passenger intercity schedules	$645,183	$663,424	$752,107
b. Local and suburban schedules	9,411	7,864	8,292
c. Charter or special service	137,362	153,170	166,412
d. Other operating revenues	177,475	196,586	269,085
e. Total operating revenues	969,431	1,021,044	1,195,896
3. Operating expenses	924,494	983,133	1,139,110
4. Lease of carrier property—net	89	40	114
5. Net carrier operating income	45,026	37,951	56,900
6. Other income and income deductions—net	13,373	19,294	16,196
7. Income taxes on ordinary income[2]	17,495	16,044	16,081
8. Ordinary income	40,904	41,201	57,015
9. Extraordinary items—net[3]	69	0	0
10. Net income	40,973	41,201	57,015
NET INVESTMENT AND EQUITY			
11. Net investment in carrier operating property and equipment, plus working capital	417,352	431,827	471,646
12. Shareholders' and proprietors' equity	478,372	499,462	571,613
FINANCIAL RATIOS (PERCENT)			
13. Operating ratio (L. 3 ÷ L. 2e)	95.36	96.29	95.25
14. Return on net investment (L. 5 ÷ L. 11)	10.79	8.79	12.06
15. Return on equity (L. 10 ÷ L. 12)	8.56	8.25	9.97
EMPLOYEE DATA			
16. Average number	29,443	28,574	29,251
17. Compensation	$447,246	$463,769	$525,806

[1]Preliminary.
[2]Does not include income taxes applicable to sole proprietorships, partnerships, and corporations that have elected to be taxed under sec. 1372(a) of the Internal Revenue Code, also does not include income taxes on extraordinary items. Includes provision for deferred taxes.
[3]Includes income taxes on extraordinary items and discontinued operations and accounting changes.

TABLE 10.—Classes A and B water carriers by inland and coastal waterways, condensed income statement, financial ratios, and employee data *(dollars in thousands)*

Item	*1977*	*1978*	*1979*[1]
1. Number of carriers represented	68	67	66
CONDENSED INCOME STATEMENT			
2. Waterline operating revenues:			
a. Line service—freight	$589,389	$651,048	$643,238
b. Line service—passenger	16,719	18,262	18,059
c. Line service—other	28,617	35,091	50,707
d. Other operating revenue	3,723	4,610	5,183
e. Revenue from terminal operations	19,700	22,300	29,196
f. Rent and motor carrier revenue	36,160	45,711	26,037
g. Total waterline operating revenues	694,308	777,022	772,420
3. Waterline operating expenses	641,200	710,460	703,362
4. Net revenue from waterline operations	53,108	66,562	69,058
5. Income taxes on ordinary income[2]	9,572	18,628	9,109
6. Ordinary income	26,862	38,571	34,230
7. Extraordinary items—net[3]	104	158	6,986
8. Net income	26,966	38,729	41,216
9. Net investment in transportation property plus working capital	613,876	626,963	501,640
10. Shareholders' equity	481,479	449,310	332,771
FINANCIAL RATIOS (PERCENT)			
11. Operating ratio (L. 3 ÷ L. 2g)	92.35	91.43	91.06
12. Return on net investment (L. 4 ÷ L. 9)	8.65	10.62	13.77
13. Return on equity (L. 8 ÷ L. 10)	5.61	8.62	12.39
EMPLOYEE DATA			
14. Average number	7,235	7,686	7,219
15. Compensation	$102,722	$126,497	$119,451

[1]Preliminary.
[2]Does not include income taxes on extraordinary items. Includes provision for deferred taxes.
[3]Includes income taxes on extraordinary items and discontinued operations and accounting changes.

TABLE 11.—Maritime carriers condensed income statement, financial ratios, and employee data *(dollars in thousands)*

Item	*1977*	*1978*	*1979*[1]
1. Number of carriers represented	4	3	3
CONDENSED INCOME STATEMENT			
2. Waterline operating revenues:			
a. Coastal and intercoastal service	$176,812	$156,454	$139,621
b. Charter revenue	92,691	47,432	50,975
c. Total vessel operating revenues	1,538,731	1,773,414	2,100,703
d. Total waterline operating revenues	1,642,744	1,889,158	2,235,382
3. Total waterline operating expenses	1,497,394	1,706,193	2,088,967
4. Gross profit from shipping operations	145,350	182,965	146,415
5. Income taxes on ordinary income[2]	27,721	35,154	12,706
6. Ordinary income	61,991	91,564	59,600
7. Extraordinary items—net[3]		2,325	- 1,042
8. Net income	61,991	93,889	58,558
9. Net investment in transportation property and equipment plus working capital	1,221,039	1,251,160	1,410,287
10. Shareholders' equity	582,015	516,928	558,042
FINANCIAL RATIOS (PERCENT)			
11. Operating ratio (L. 3 ÷ L. 2d)	91.15	90.31	93.45
12. Return on net investment (L. 4 ÷ L. 9)	11.90	14.62	10.38
13. Return on equity (L. 8 ÷ L. 10)	10.65	18.16	10.49
EMPLOYEE DATA			
14. Average number	7,492	8,127	8,192
15. Compensation	$159,359	$173,544	$194,234

[1]Preliminary.
[2]Does not include income taxes on extraordinary items. Includes provision for deferred taxes.
[3]Includes income taxes on extraordinary items and discontinued operations and accounting changes.

TABLE 12.—Class A freight forwarders condensed income statement, financial ratios, and employee data *(dollars in thousands)*

Item	*1977*	*1978*	*1979*[1]
1. Number of forwarders represented	132	122	110
CONDENSED INCOME STATEMENT			
2. Operating revenues:			
a. Transportation revenues	$1,894,014	$1,855,816	$2,142,015
b. Transportation purchased (debit):			
1. Railroad	261,633	253,812	294,450
2. Motor	166,971	193,885	222,867
3. Water	99,417	88,009	105,378
4. Pickup, delivery, and transfer	324,509	303,467	339,438
5. Other	450,014	435,249	506,955
6. Total transportation purchased	1,302,544	1,274,422	1,469,088
c. Operating revenues	615,199	602,795	700,503
3. Operating expenses	536,229	507,931	601,761
4. Net revenue from forwarder operations	78,970	94,864	98,742
5. Income taxes on ordinary income[2]	36,197	40,714	40,751
6. Ordinary income	36,060	50,198	54,565
7. Extraordinary items—net[3]	1,940	−1,030	1,096
8. Net income	38,000	49,168	55,661
NET INVESTMENT AND EQUITY			
9. Net investment in transportation property plus working capital	108,959	114,370	127,973
10. Shareholders' equity	153,031	169,490	209,337
FINANCIAL RATIOS (PERCENT)			
11. Operating ratio (L. 3 ÷ L. 2c)	87.16	84.26	85.90
12. Return on net investment (L. 4 ÷ L. 9)	72.48	82.94	77.16
13. Return on equity (L. 8 ÷ L. 10)	24.83	29.01	26.59
EMPLOYEE DATA			
14. Average number	14,053	12,513	12,047
15. Compensation	$227,903	$219,637	$243,832

[1]Preliminary.
[2]Does not include income taxes on extraordinary items. Includes provision for deferred taxes.
[3]Includes income taxes on extraordinary items and discontinued operations and accounting changes.

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